

March 10, 2009



TRANSCRIPT

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MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Phil Andrews, President

Councilmember Roger Berliner, Vice President

Councilmember Marc Elrich

Councilmember Nancy Floreen

Councilmember George Leventhal

Councilmember Valerie Ervin

Councilmember Michael Knapp

Councilmember Duchy Trachtenberg



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1 COUNCIL PRESIDENT ANDREWS:

2 Good morning, everybody, and thank you for your patience. Welcome to a meeting of the
3 Montgomery County Council. We're going to begin with a moment of silence, so please
4 stand. Thank you. We're now going to have 2 presentations that will be presented to the
5 Sherwood High School football team and the-- Sherwood senior Solomon Haile for his
6 cross-country championship. And Councilmember Knapp is going to join me for the
7 presentations, and we're going to begin with the recognition of Solomon Haile. I am-- one
8 of the great things about serving on the County Council is recognizing terrific
9 achievements by our student athletes. And we've got a lot of great student athletes in the
10 room today, and one of them is standing next to me, Solomon Haile, who won the national
11 cross-country championship this year and was the first boy runner in this area, in this
12 region, to win that championship since the race began 30 years ago. And I want to say
13 congratulations. I'll be reading a proclamation to you--for you on behalf of the Council. But
14 I also want to recognize that we have the principal of Sherwood here with us today, Mr.
15 Gregory, William Gregory. We've got Dan Reeks, the coach, who is the coach of the
16 cross-country team. And he's got big shoes to fill next year, but I understand he's got a lot
17 of good runners along. So--and Jim Meehan, the athletic director, is to my left. So I want
18 to read this on behalf of the County Council, and actually I'll share the duties with
19 Councilmember Knapp. In fact, Councilmember Knapp, why don't you do the honors on
20 this. And I want to recognize that Councilmember--our late colleague, Councilmember
21 Praisner, was going to help recognize the team and Solomon back in January. But as we
22 all know, Councilmember Praisner passed away, and so we are doing this as well in his
23 honor. Councilmember Knapp.

24
25 COUNCILMEMBER KNAPP:

26 Thank you very much. I had an opportunity to watch Solomon run this past year at the
27 County Championships at Gaithersburg High School, and it was a feat to behold. As
28 someone who ran cross-country, I haven't seen many people do that and run that well
29 ever, so very impressive. "A proclamation on behalf of the County Council, whereas
30 Sherwood High School senior Solomon Haile completed one of the most outstanding
31 cross-country seasons ever by a Washington region runner; and whereas the native of
32 Ethiopia finished the season unbeaten, winning the Montgomery County Maryland AAAA
33 West Region, Maryland AAAA State Championships, all in course- record times and
34 completed his year by winning the Foot Locker national championship race in San Diego;
35 and whereas a cross- country runner's ability can be measured not only by his
36 performance against his peers, but also against the greatest runners who previously
37 competed on the same courses, and Solomon literally hit a magnificent stride with wins on
38 the legendary courses at Van Cortland Park in New York City, where he set 2 more
39 records in winning the Manhattan
40 Invitational in 12 minutes, 6.61 seconds, and the Foot Locker Northeast Regional in 15
41 minutes and 22 seconds; and whereas all of these accomplishments, including becoming
42 the first boys runner to win the Foot Locker national championship in the 30-year history of



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1 the race, led to Solomon being named the Washington Post boys cross- country runner of
2 the year; now therefore be it resolved the County Council of Montgomery County,
3 Maryland, congratulates Solomon Haile for bringing pride and prestige to Sherwood High
4 School and to all of Montgomery County as a result of his hard work and outstanding feats
5 using his feet. Signed this 10th day of March in the year 2009, Phil Andrews, Council
6 President."

7
8 SOLOMON HAILE:

9 I'm so happy for this. I mean, I had a really good time in Sherwood. All my teammates, my
10 coach--everyone's, I mean, been helping me. I want to say thank you for everyone.
11 Thanks again, and congratulations to our team, too.

12
13 WILLIAM GREGORY:

14 I want to let everybody know how proud of Solomon I am for the accomplishments he's
15 made, and also to Coach Reeks for what he has done for Solomon and also the rest of
16 our track and cross- country teams.

17
18 COUNCILMEMBER KNAPP:

19 OK. Good job. All right. OK. Can we move this? OK.

20
21 COUNCIL PRESIDENT ANDREWS:

22 OK, all right, I'm going to ask the rest of the room to join me up here. Come on up, guys.
23 And Coach Thomas, as well. All right, we're going to see how many people can fit up
24 here. We haven't tried this, so I think it'll work. Here, we'll make a little bit more room. We
25 can do it. All right, you guys, you all know how to huddle. Let's huddle. All right. All right.
26 All right, I think we've got--we got just about everybody up. We now know the capacity of
27 this area. All right, well, the Sherwood Warriors had a championship season and won their
28 third championship in the last 15 seasons, which is a real tribute to their coach Al Thomas,
29 who really is a legend in high school sports here in the County and certainly among high
30 school football coaches in the state. And I understand there are 26
31 seniors, which means there are more non-seniors than seniors. So that bodes well for
32 next year for the team, as well. I'm going to ask Councilmember Knapp again to do the
33 honors on this. But I just want to say that this is a season that you guys will remember for
34 a long time. When you come back to your reunions, you'll remember this championship
35 year and, you know, maybe you'll have one next year, as well, to remember, given the
36 strength of the team. But this was a special season I know that you'll remember for a long
37 time, and you should. And we congratulate you on bringing back the championship to
38 Montgomery County, to Sherwood, and good luck to the seniors as you move on in your
39 life and career. And I know that the coach has taught you a lot of lessons about life as well
40 as about football. Councilmember Knapp.

41
42 COUNCILMEMBER KNAPP:



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1 Thank you, Mr. President. I just also share my congratulations with everyone. One of the
2 great things about representing the Upcounty in the fall is it does represent some of the
3 best football teams in the state, and in the past couple of years Sherwood has clearly
4 been the cream of that crop. "And so in proclamation in recognition of their season,
5 whereas building a successful high school football program requires organization,
6 dedication, and year-round hard work in the weight room, on the practice field and the film
7 room, and studying the playbook, all of which the 2008 Sherwood Warriors demonstrated;
8 and whereas the Sherwood High School football team distinguished itself as a region--has
9 distinguished itself as it finished 14-0, earned the number one ranking in the Washington
10 metropolitan region as selected by the Washington Post, and capped a remarkable
11 season by defeating previously unbeaten Linganore 21-3 to win the Maryland AAAA State
12 Championship at M&T Bank Stadium in Baltimore; and whereas the Warriors scored 31 or
13 more points in 11 of their 14 games, allowed an average of only 7.5 points per game, and
14 finished their season by limiting the Lancers, who came into the Championship game
15 averaging 45 points a game to only 124 total yards and just 6 first downs; and whereas
16 the victory gave coach Al Thomas his personal eighth Maryland state championship, tying
17 him for the most victories by a coach in state history, as he prepares to retire with a career
18 record of 242-47; and whereas all the players, their coaches, their families, and
19 supporters deserve hearty kudos for setting their sights high and realizing their dreams;
20 now, therefore, be it resolved the Montgomery County Council congratulates the
21 Sherwood High School football team. And be it further resolved that the Montgomery
22 County Council joins the entire Sherwood High School community in recognizing this
23 wonderful achievement of bringing home the
24 championship banner to Montgomery County. Presented this 10th day of March in the
25 year 2009, Phil Andrews, Council President."

26
27 COUNCIL PRESIDENT ANDREWS:

28 Congratulations, guys. Great job. Let's have the--let's hear from the coach first.

29
30 COUNCILMEMBER KNAPP:

31 Congratulations.

32
33 AL THOMAS:

34 Thank you. Thank you very much. I want to just mention 2 things to you and to the
35 Council. We have 57 players on our varsity football team this year--26 seniors, 26 juniors,
36 and 5 sophomores--and as the season was coming to the end, the first grading period
37 ended. And of those 57--actually at that time, those 58 players that we had, only one of
38 the 58 was ineligible. That's 900% better than our student body. One out of 58--that tells
39 you something. And they were busy. They were busy. And the second thing I would say to
40 the people in the audience and to the County Council. You know, you read a lot of stuff
41 about problems in our schools and, you know, problems with our young people. As our



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1 future comes along, these guys will be the next coming leaders. I'm going to tell you
2 something. The country's in good hands with these guys. Trust me. Thank you.

3
4 COUNCIL PRESIDENT ANDREWS:
5 Coach, coach? Coach, coach?

6
7 AL THOMAS:
8 Uh, they asked for our captain to speak. We didn't have captains. Our senior class is our
9 captains. They alternate every game. They take turns. But he said, "Bring one guy up," so
10 I'm going to have Steve Campbell come up. The reason I want to bring Steve up is Steve
11 has been a 3-year starter for us. Started in tenth grade, 11th grade, and 12th grade,
12 played both ways. Steve was the starting middle linebacker and starting fullback for us
13 this year, and this past Saturday he just won the state wrestling championship at 160
14 pounds. Starting fullback, linebacker, honor roll student.

15
16 STEVE CAMPBELL:
17 On behalf of the football team, I'd like to thank our coaches for this whole season, helping
18 us, and also the community for supporting us through our whole season and through the
19 state championship, and also the County Council for awarding us for our accomplishment.

20
21 COUNCIL PRESIDENT ANDREWS:
22 Thank you. Good work. Congratulations.

23
24 STEVE CAMPBELL:
25 Thank you. You're welcome.

26
27 COUNCIL PRESIDENT ANDREWS:
28 Are you a senior?

29
30 STEVE CAMPBELL:
31 Senior.

32
33 COUNCIL PRESIDENT ANDREWS:
34 Senior? All right, good luck
35 next year. OK.

36
37 WILLIAM GREGORY:
38 As Coach Thomas said, not only do we have wonderful athletes up here, we have
39 wonderful students. But most importantly, we have wonderful guys with great character.
40 This football team won because of their heart, and that's the biggest thing. I want to thank
41 our coaches. I want to thank Coach Thomas and everybody else because it's under their



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1 leadership that they were able to bring the best out of these guys. And I want to thank the
2 Council for having us once again.

3
4 COUNCIL PRESIDENT ANDREWS:

5 Thank you all for coming in, and we do have certificates for all of the players. I will give
6 them to the coach so he can give them to you when you can all get them one by one. But
7 now the tough part is we're going to try to take a picture of the whole group, so this is the
8 toughest part of the season. Let's see if we can do this. All right, everybody, we're now
9 going to move on to our general business and announcement of agenda and calendar
10 changes, acknowledgement of receipt of petitions, and then we'll approve the minutes.
11 Ms. Lauer.

12
13 LINDA LAUER:

14 Good morning. There is a change. We have another set of minutes that you'll be voting on
15 this morning, and they were in your packet. It's for February 24. And then the other
16 change is this afternoon. We've moved the libraries to the beginning of the afternoon. 2
17 petitions were received this week, one supporting operations and renovations of the
18 Gaithersburg Library, and the other one is to support full funding for the Library's budget.
19 Thank you.

20
21 COUNCIL PRESIDENT ANDREWS:

22 Thank you. OK, we're going to move on to action and approval of minutes as described,
23 February 9 and 23, and 24 I think as well? OK, is there--there is a motion by
24 Councilmember Leventhal, seconded by Councilmember Knapp. All those in favor of
25 approval of the minutes of February 9, 23, and 24, please raise your hand. Councilman
26 Elrich? Yeah? OK, that is unanimous among the councilmembers. Now on to the consent
27 calendar. Is there a motion for approval? So moved by Council Vice President Berliner,
28 seconded by Councilmember Floreen. Is there any discussion on the consent calendar? I
29 forgot to switch this on. OK, I don't see any yet. I'm going to just say that as I mentioned a
30 couple weeks ago, we have a terrific number of people in Montgomery County, talented
31 people who volunteer for our boards and commissions, and we're going to be confirming
32 the appointments of a number of individuals today. And I'm just going to read their names
33 and thank them for their willingness to serve on our boards and commissions. To the
34 Advisory Board for the Montgomery Cares program, Sybil Greenhut. To the Agricultural
35 Advisory Committee, Tom Linthicum, Tim McGrath, J. Kelly Lewis, Gene Walker, Patrick
36 Brown, Gregory Stone,
37 and Lois Stoner. To the Citizens Review Panel for Children, John Snoddy and Patrice
38 Pascual. To the Commission on Common Ownership Communities, Steven Greenspan,
39 Vicki Satern Vergagni, Staci Gelfound, Paul Nettleford, Arthur Dubin, and Maria Teresa
40 Garcia. To the Commission on People with Disabilities, Lauren Feuerstein and Richard
41 Jackson. To the Countywide Recreation Advisory Board, John Williams. And to the
42 Western Montgomery County Citizens Advisory Board, Deborah Nixon and Sally Kaplan.



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1 These are all appointments by the county executive that are being confirmed this morning,
2 and I want to thank all of them for their willingness to serve on these important
3 commissions. I think we are ready, then, for a vote on the consent calendar. Would all in
4 favor please raise your hand? That is unanimous among the councilmembers. Next is
5 legislative session day number 10, introduction of bills, Expedited Bill 8-09, Parks
6 Department, Golf Courses, Lease with Revenue Authority, Amendment, sponsored by the
7 Council President at the request of the Planning Board. And we have a public hearing
8 scheduled for March 17 at 1:30 P.M. And without introduction, that bill is introduced. All
9 right, on to item 5 and our District Council session. Item 5 is action on the Intercounty
10 Connector, Limited Functional Master Plan for Bikeways and Interchanges. I'll turn to the
11 Chair of the Transportation, Energy, Environment, and Infrastructure Committee, Nancy
12 Floreen.

13
14 COUNCILMEMBER FLOREEN:

15 Thank you very much, Mr. President. When we last visited this issue, I think we resolved
16 most of the issues associated with the bikeway along the ICC, and there have been some
17 last-minute conversations that I think Mr. Orlin might take us through. But I believe that the
18 last issue for resolution actually is whether or not there should be an additional--what do
19 we call it?--shared-use trail route between New Hampshire Avenue and U.S. 29 through
20 the Paint Branch Special Protection Area. That's what Glenn has described on his memo.
21 And if you will recall, what we discussed at our last session on this, the T&E Committee
22 had taken the position that--because we wanted to see the bikeway actually constructed
23 along the alternative pathways. You'll remember there were a couple of alternative ways
24 to address this environmentally sensitive area. And we had a considerable conversation
25 about the fact that there were environmental constraints, which we recognized, and that
26 any construction would have to be done very sensitively without going--following the
27 terrain because of the need to protect the environment there. That, you know, this was not
28 a project that was going to happen very soon, but in the long term we felt that there would
29 be construction techniques that would allow for a bikeway pretty close to the roadway.
30 And maybe if the Council would like, Glenn can remind us of the conversation in that
31 regard. But I believe the real issue was, should we also support a shared- use path along-
32 -as an alternative route for this area
33 along existing roadways? And the challenge that we had heard in committee really was
34 the fact that this is an area with loads of driveways and businesses and so forth. And we
35 had heard from the biking community in particular that their preference was for the main
36 route closer to the actual ICC. And we have gotten some further communication on this
37 score in particular, and since that's come in, like, since last night, more or less, I think Mr.
38 Orlin is best positioned to explain it. But I think the committee still where it was on it, and
39 perhaps other --there'd be other points of view.

40
41 COUNCIL PRESIDENT ANDREWS:

42 OK, thank you. Mr. Orlin.



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1
2 GLENN ORLIN:

3 OK, thank you. Yes, Ms. Floreen was correct. The Council at the last work session, you
4 decided that the Master Plan should continue to show a shared-use path along the
5 alignment of the ICC in the section between New Hampshire Avenue, which is here, and
6 U.S. 29, which is here.

7
8 COUNCILMEMBER FLOREEN:

9 We did not have this technological advance at our last session.

10
11 GLENN ORLIN:

12 The only question is whether or not you want, in addition to that, to designate this route--
13 New Hampshire Avenue south from the ICC to Randolph, Randolph east to Fairland
14 Road, and Fairland Road east to U.S. 29 at 29--as an addition to that, another shared-use
15 path. Now, actually, the Randolph Road piece already is Master Planned with the shared-
16 use path. But the difference would be New Hampshire Avenue from this point south to
17 Randolph, and Fairland from this point over to U.S. 29, which currently in the master plans
18 call for bike lanes only. The alternative here would be to show them as being what's called
19 dual bikeways, which would have both bike lanes and a shared-use path. So that's really
20 the only decision that you haven't made yet. And in the resolution on Circle 12, you would
21 see the language that would be inserted if you went with this alternative option, which is in
22 bold and italics near the top of the page, that bullet. But if you do not want to do that, then
23 that language would come out. The positions of folks, again, the T&E Committee
24 unanimously recommends just the ICC bike path, so you would not include this language
25 to go with the T&E Committee's recommendation. That is also the Department of
26 Transportation's recommendation. Again, just the ICC path. The Planning Board's
27 recommendation had been not to do the ICC path but to do this shared-use path along
28 New Hampshire, Randolph, and Fairland. My recommendation had been to do both. And
29 I'm not sure what the Planning Board's recommendation is currently, given the Council's
30 last--

31
32 DAN HARDY:

33 For the record--Dan Hardy, Transportation Planning Chief, Park and Planning--the
34 Planning Board did not take this up in separate session. But Chairman Hanson has
35 indicated that he does feel that having the separate path is important.

36
37 GLENN ORLIN:

38 There we have it.

39
40 COUNCILMEMBER FLOREEN:

41 So that's the issue before the Council, Mr. President, whether or not it wants to add the
42 shared-use path as an additional roadway-- pathway here. And I would say, just generally



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1 speaking, we would expect that the--I think that the County's Master Plan of bikeways in
2 any event would be amended to include all the work that we have done so far on this.

3
4 COUNCIL PRESIDENT ANDREWS:

5 OK, thank you. I have a couple councilmembers who wish to speak. First, Council Vice
6 President Berliner.

7
8 COUNCIL VICE PRESIDENT BERLINER:

9 Dr. Orlin, with respect to the last point that the Chair raised, we had a lot of conversation
10 with respect to achieving this result, but not in the ICC Master Plan but in the bikeways
11 Master Plan, if that's the correct terminology, and to require the same set of options in the
12 bike Master Plan

13 that you have identified on the top of page 12. Is there a flaw in that approach, because
14 the nuance here is that the Committee's view was it does want to encourage the ICC
15 alignment, if you will, as its first preference. And the concern was to the extent to which
16 you have alternatives posed in that context, the alternative will become the default mode.
17 So we didn't want to have this option in the part of the ICC Master Plan because we
18 wanted to state our clear

19 preference. But we didn't want to achieve this result by amending the Master Plan for the
20 bikeways. Am I mistaken with respect to that, and can we achieve that result in that
21 manner?

22
23 GLENN ORLIN:

24 This--what this is plan is, is an amendment to the Master Plan of bikeways, so you're
25 accomplishing that with this. The other thing I want to say is that regardless of what you
26 do as to this alternative, whether you include it or not, the ICC bike path will be the one
27 that goes along the ICC. It's called SP 40, Shared-use Path 40, and that's the bikeway
28 that would go from Prince Georges County all the way to Shady Grove Road, frankly. The
29 only question is whether or not you want to further amend the bikeways Master Plan to
30 change, again, New Hampshire Avenue from what is now bike lanes to a dual bikeway,
31 and Fairland Road from bike lanes to a dual bikeway. And, yes, the issue is--the reason
32 for advocating this alternative alignment is the concern that it may be a very, very, very
33 long time before the resources, financially and otherwise, are pooled together to be able
34 to build SP 40, and so this may be more achievable in the short term. And, well, that's sort
35 of a glass half full, glass half empty thing. Glass half full, we may even provide something
36 in that area to provide connectivity for a off-road path. The glass half empty is, well, if you
37 do that, then that takes the incentive off from doing the SP 40 sooner. So that's the kind of
38 decision you're facing right now.

39
40 COUNCIL PRESIDENT ANDREWS:



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1 OK, thank you, Council Vice President. Next speaker is Councilmember Leventhal, and
2 then Councilmember Elrich.

3
4
5 COUNCILMEMBER LEVENTHAL:

6 Are we in a position now to make amendments to the Master Plan of bikeways? Do the
7 decisions we make today have that effect?

8
9 GLENN ORLIN:

10 Yes. This whole Master Plan is an amendment--sorry. Is an amendment to the Master
11 Plan of bikeways as well as actually to the area Master Plans that these all go through.

12
13 COUNCILMEMBER LEVENTHAL:

14 Did I understand you correctly to say that the recommendation is that there would be a
15 bikeway on both the north and south sides of Fairland Road? That seems...

16
17 GLENN ORLIN:

18 No, no, no, no, no. No. There would be bike lanes and a bike path.

19
20 COUNCILMEMBER LEVENTHAL:

21 Like lanes on the road and a bike path the whole length of Fairland Road.

22
23 GLENN ORLIN:

24 Correct.

25
26 COUNCILMEMBER LEVENTHAL:

27 OK, well, that sounds desirable in the Master Plan of bikeways as the Council Vice
28 President said, and then the ICC bikeway master plan would only reflect that bikeway that
29 runs along the ICC.

30
31 GLENN ORLIN:

32 Right, but this document amends all, so it--it specifies where the ICC bikeway will go.

33
34 COUNCILMEMBER LEVENTHAL:

35 Then, in terms of signage and the way it's identified.

36
37 GLENN ORLIN:

38 Right.

39
40 COUNCILMEMBER LEVENTHAL:

41 The ICC bikeway would be that bikeway that runs alongside the ICC. Anything that ran on
42 Fairland Road would not be identified as the ICC bikeway.



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1
2 GLENN ORLIN:

3 That's right.

4
5 COUNCILMEMBER LEVENTHAL:

6 And that's what the committee agreed to.

7
8 COUNCIL PRESIDENT BERLINER:

9 I think this is consistent with what the committee asked you to draw up and I'm--I'm
10 comfortable with this approach as one member of the committee.

11
12 COUNCIL PRESIDENT ANDREWS:

13 OK. Thank you. Councilmember Elrich.

14
15 COUNCILMEMBER ELRICH:

16 In the real world, does what we're-- does what we're doing affect-- Yeah. Someplace.
17 Some real world. Does what we're doing affect when something might actually be built?
18 Are there any implications if you include it in an ICC alternative versus in the Master Plan
19 of bike lanes? Does it alter how and when it might come into use?

20
21 GLENN ORLIN:

22 I think it's entirely up to you. I mean, or future Councils. [Clears throat] Excuse me.
23 Because, you know, Fairland Road, Randolph Road are both county roads, New
24 Hampshire Avenue is a state highway, but the extent that you want to program a bike path
25 in addition to what's out there in the CIP, or alternatively, try to encourage the state to
26 build a bike path in the ICC right-of-way or next to it, or the county pay for that. That's, you
27 know, for either this Council later or a future Council to determine, but it's-- right now,
28 we're just saying what is it that should be shown in Master Plans? What do we want to see
29 it build out?

30
31 DAN HARDY:

32 One other possibility, alternatively, to look for the private sector to implement it as part of a
33 development review exaction



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1 GLENN ORLIN:

2 That's possible, too, yes.

4 COUNCILMEMBER ELRICH:

5 Is there anybody over there we're gonna be exacting from?

7 COUNCILMEMBER TRACHTENBERG:

8 No.

10 GLENN ORLIN:

11 If there was some--this gets to the issue of in the growth policy--

13 DAN HARDY:

14 PMR instead. Do it as part of PMR. I didn't want to use that word, either.

16 COUNCILMEMBER ELRICH:

17 You probably don't want to use that word.

19 GLENN ORLIN:

20 You recall, there was, in the growth policy, if there are some non-auto methods that can
21 be taken to essentially count as trips, and part of that is to build sections of new sidewalk
22 and new bike paths. I don't think a developer would build the entire of either one of these,
23 but they could be building parts of it.

25 CHUCK KINES:

26 For the record, Chuck Kines with Transportation Planning, Park and Planning. I think, you
27 know, getting a shared-use path along New Hampshire, Randolph, or Fairland as part of
28 PMR or subdivision review would be easier than getting a shared-use path along the ICC,
29 which would require pooling the money over time, having the state or the county hold the
30 money over time, and then, you know, waiting until you have enough money to build it,
31 whereas you would get the piecemeal shared-use path along the existing roads, I think, a
32 lot quicker.

34 COUNCILMEMBER ELRICH:

35 Is there any kind of cost estimate that goes with either of these alternatives? I guess--my
36 interest is to try to complete this path as soon as possible, so the concern is-- it seems to
37 me that it's easier to implement New Hampshire to Randolph to Fairland than anything
38 else, since it's basically there. And going through the ICC right-of-way is not there. So is...
39 yeah. You have a number?



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1 BOB SIMPSON:

2 Thank you. Bob Simpson. D.O.T. We do have a number that we calculated as part of the
3 fiscal analysis. The shared-use path along Fairland Road, we calculated to be \$3.2
4 million. Along New Hampshire Avenue, \$1.1 million. There never--there had been a fiscal
5 analysis done a while back for the path along the ICC alignment itself, and I apologize, I
6 do not have that figure with me for comparative purposes. But the point I'd like to just add
7 to this conversation, which was D.O.T.'s point, as to why we didn't think this additional
8 language is necessary, is that there already are both on-road bike facilities, bike lanes,
9 and off-road facilities in the forms of sidewalks that already exist. So we think that a
10 network that serves both types of bicyclists already exists along New Hampshire, East
11 Randolph, and Fairland such that calling for additional bike paths is duplicative, and that
12 was our actual concern is that it was a misallocation of resources, because we think the
13 resources need to be targeted to the bike path along the ICC and not diluted, so to speak,
14 by spending along these other roadways which already have both an on-road bikeway
15 plus an off-road sidewalk.

16
17 COUNCILMEMBER ELRICH:

18 But it is--my understanding is people don't consider bike paths and on-road bikeways to
19 be equivalents, and if you ask somebody what their preference is for safety or anything
20 else, I don't think they'd say, "Doesn't make any difference to me whether it's, you know, 3
21 feet next to the lane of traffic or a separated bike path." I think there's a qualitative
22 difference between those two things.

23
24 BOB SIMPSON:

25 Right, and the sidewalk would perform that function. In other words, the off-road sidewalk
26 would be sufficient given the--the sidewalks are not over capacity in terms of bicycle use.
27 They're--they're plenty good enough for the bicycling use that currently exists or is
28 foreseen to exist in the near future.

29
30 DAN HARDY:

31 Just to add, for the record, our estimate for the ICC bikeway was about \$11
32 million.

33
34 BOB SIMPSON:

35 Between Paint Branch and--

36
37 DAN HARDY:

38 Between Maryland--yeah, between Maryland 650 and U.S. 29, that part of the screen.

39
40 COUNCILMEMBER ELRICH:

41 2 1/2 to 3 times as much as this.

42 COUNCIL PRESIDENT ANDREWS:



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1 OK. Did you want to--want make a motion?

2
3 COUNCILMEMBER FLOREEN:

4 Well--

5
6 COUNCIL PRESIDENT ANDREWS:

7 Councilmember Floreen, go ahead.

8
9 COUNCILMEMBER FLOREEN:

10 I've been going back and forth in this in my mind, and I think Mr. Simpson's comments are
11 really apropos. As a bicyclist myself, in this area, you're gonna ride on Fairland Road.
12 New Hampshire Avenue might be a little different in terms of the roadway activity, but the
13 real issue is getting the--the bikeway, which is the neat experience through this
14 environment. It's getting people away from the residential activity onto--through--through
15 what is a very attractive place. And of course there are gonna be challenges in getting to
16 it, but

17 if you don't identify that as an objective, you are not gonna get there, because it would be
18 costly in any event. Remember, when you build an off-road bike path of the sort they're
19 talking about, I guess you'd be widening existing--an--and adding to existing sidewalks? Is
20 that what--what you're thinking of here?

21
22 CHUCK KINES:

23 Along New Hampshire and Fairland? Yes. We would be widening the sidewalk on one
24 side or the other from existing 5 feet--or 4 feet to 8 feet or more.

25
26 COUNCILMEMBER FLOREEN:

27 And that's an area where, frankly, if you're biking, you're gonna be biking alongside in a
28 bike lane. Is there a bike lane along New Hampshire Avenue now?

29
30 CHUCK KINES:

31 Yes, from about a few hundred yards north of Randolph Road all the way up to the ICC,
32 there are bike lanes on both sides, yeah, but not all the way down to the intersection at
33 Randolph.

34
35 COUNCILMEMBER FLOREEN:

36 Yeah. I'm not--I'm not sure you'd encourage your 10-year-old to do that, but for the longer
37 distance bicyclist, that's certainly where you'd go.

38
39 COUNCIL PRESIDENT ANDREWS:

40 Thank you. Councilmember Berliner.

41 COUNCIL VICE PRESIDENT BERLINER:



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1 Council President, and with great respect to my chair, I am nonetheless going to move the
2 language that Dr. Orlin has provided us.

3
4 COUNCIL PRESIDENT ANDREWS:

5 OK. All right. That's moved by Council Vice President Berliner, seconded by
6 Councilmember Ervin. Is there any discussion on the amendment?

7
8 COUNCILMEMBER LEVENTHAL:

9 Just a point of the issue.

10
11 COUNCIL PRESIDENT ANDREWS:

12 Sure. Councilmember Leventhal.

13
14 COUNCILMEMBER LEVENTHAL:

15 I--I'm a little confused about the status. Is what we're proposing different than what the
16 committee proposed?

17
18 VARIOUS SPEAKERS:

19 Yes.

20
21 COUNCIL VICE PRESIDENT BERLINER:

22 Actually, what Dr. Orlin and I believe reflected was our conversation which we asked him
23 to provide us with both options. He's now provided us with both options, which I thought
24 was consistent with what the committee had said, which was to--and again, there's room
25 for disagreement here, because it was somewhat of a confusing conversation, but my
26 understanding of our
27 conversation was that we didn't want to amend the bike master plan to provide for this
28 additional way but that we wanted to consider the ICC route to be the ICC route.

29
30 COUNCILMEMBER LEVENTHAL:

31 So it was the chair's view that we don't need a separate bike path on Fairland Road.

32
33 COUNCIL VICE PRESIDENT BERLINER:

34 Yes.

35
36 COUNCILMEMBER LEVENTHAL:

37 OK. I prefer to have more bike paths everywhere, so--right. Got it.

38
39 COUNCIL VICE PRESIDENT BERLINER:

40 That's the nature of my motion. Yes, sir.

41 COUNCIL PRESIDENT ANDREWS:



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1 OK. All right. OK. Well, we're ready for a vote on the amendment, then. All those in favor
2 of the amendment to add the language on page 12 in bold, please raise your hand. All
3 right. That is Councilmember Elrich, Councilmember Trachtenberg, myself, Council Vice
4 President Berliner, Councilmember Knapp, Councilmember Ervin, Councilmember
5 Leventhal. Opposed. Councilmember Floreen.

6
7 COUNCILMEMBER FLOREEN:

8 OK, I'll go with the majority.
9

10 COUNCIL PRESIDENT ANDREWS:

11 She'll go with it. OK. She's making it unanimous. OK.
12

13 COUNCILMEMBER KNAPP:

14 Way to cave.
15

16 COUNCILMEMBER TRACHTENBERG:

17 Very pragmatic.
18

19 COUNCIL VICE PRESIDENT BERLINER:

20 How graceful. How graceful.
21

22 COUNCIL PRESIDENT ANDREWS:

23 OK. All right. We have a unanimous-- unanimous support for the amendment. 8-zero. All
24 right. And are there any comments on the issue overall, itself, before we vote on the
25 limited Master Plan amendment? Councilmember Floreen.
26

27 COUNCILMEMBER FLOREEN:

28 Well, I just--I think it's great that we've spent this time on it. I think the real question is can
29 we deliver it? And I hope this is not an academic exercise. I think this was something that
30 Council asked for when it first supported the ICC years ago, and I would ask that Park and
31 Planning, as you administer whatever growth policy rules we come up with, that you
32 include this as something we want to fund as we work through development issues
33 throughout the county, because this is the kind of--kind of activity that we really need to
34 create on a consistent basis. So, we've had this conversation with respect to alternative
35 bike lanes, and I think that reflects the Council's desire to support bicycling generally, but
36 the real issue, I think, is along the ICC and to the extent that we can maximize this in our
37 conversations about bikeways, let's try to do that. So, thank you, everyone, for your hard
38 work.
39



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1 COUNCIL PRESIDENT ANDREWS:

2 Yes. I want to echo that. A lot of hard work went into this proposal. The committee worked
3 very hard on it. Park and Planning worked very hard on it. It's quite detailed and
4 thoughtful, and I know we all appreciate the care and attention that went into it and it will
5 be built over a period of years. No question it will be a while for sure, but it is important to
6 have it on the Master Plan, and I think to have as much flexibility as possible that is now
7 provided by the Council's action. I want to just make one note. On page 12, Circle 12--I'm
8 sorry, Circle 14, at the top of the page, I want to note that I agree very much
9 with the paragraph that says, "The planning process must not merely react to the
10 approved highway design with quick fixes, but must offer long-term vision 20 to 30 years
11 in the future that anticipates needs generated by local, regional, and global environmental
12 and societal challenges," and I believe very much that building bikeways does help
13 address the global environmental challenge. I will say as just one Councilmember, I do not
14 believe the ICC highway is consistent at all with that, and that that's like mixing oil and
15 water. But bikeways we can all agree on, and that's what we're acting on today. So with
16 that, all those in favor of the amendment to the bikeway Master Plan, please raise your
17 hand. And that is unanimous among the 8 Councilmembers. Thank you very much, Chair
18 Floreen. All right. Our final item for the morning is oral argument and consideration of
19 hearing examiner's report and recommendation on Development Plan Amendment 08-2.
20 As is the case, we'll have 20 minutes allotted for each party and if the parties wish to
21 reserve some time for rebuttal, they need to do that at the beginning of their--indicate so
22 at the beginning of their presentation. We have our able lawyers here as well and the
23 hearing examiner to ensure that what is discussed is in the record, and I'll ask our hearing
24 examiner if he has any opening comments he wants to make just to remind everybody of
25 the framework for the oral argument.

26
27 MARTY GROSSMAN:

28 I outlined--
29

30 COUNCILMEMBER FLOREEN:

31 Press your button there.
32

33 MARTY GROSSMAN:

34 Oh. Ha ha.
35

36 COUNCILMEMBER FLOREEN:

37 There you go.
38

39 MARTY GROSSMAN:

40 Thank you. I outlined last week the general parameters of the case. The 2 issues that
41 were established for oral argument are compatibility with the historic district-- adjacent
42 historic district and the rural village in which this is located and the... function of the



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1 Historic Preservation Commission. And so that's what'll be addressed by the oral
2 argument today.

3
4 COUNCIL PRESIDENT ANDREWS:

5 OK. Thank you. Any other comments from our Council attorney? OK. All right. So we are
6 going to hear first from those who asked for oral argument, right? And you'll have 20
7 minutes for your presentation. Do you want to reserve any time for rebuttal? Press the
8 button. Yeah.

9
10 MICHELLE LAYTON:

11 Yes, we're gonna go ahead and reserve 3 minutes of our time.

12
13 COUNCIL PRESIDENT ANDREWS:

14 OK. Very good. So you have 17 minutes, then, for--up to 17 for your initial presentation.
15 OK.

16
17 MICHELLE LAYTON:

18 I have one question about the audiovisuals.

19
20 COUNCIL PRESIDENT ANDREWS:

21 All right.

22
23 MICHELLE LAYTON:

24 We have no idea how to work them.

25
26 COUNCIL PRESIDENT ANDREWS:

27 OK. Can we give them a hand? You may need to go to the other chair for that. And our
28 hearing examiner will be paying close attention to make sure that everything we see is in
29 the record.

30
31 MARTY GROSSMAN:

32 Yes, Mr. President. I should mention that if there's a snafu with the electronics, I have
33 brought copies of the--hard copies of the exhibits that the parties requested.

34
35 COUNCIL PRESIDENT ANDREWS:

36 Thank you. OK. We'll give them a minute or 2 to get set up here. Are we set?

37
38 MICHELLE LAYTON:

39 I--I think so.

40
41 COUNCIL PRESIDENT ANDREWS:

42 OK. Very good.



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1
2 MICHELLE LAYTON:

3 I hope with this new technology the technical difficulties doesn't count against our...

4
5 COUNCIL PRESIDENT ANDREWS:

6 Sure. We're all learning here.

7
8 MICHELLE LAYTON:

9 Thank you.

10
11 COUNCIL PRESIDENT ANDREWS:

12 That's fine. All right, well, please introduce yourself to start with.

13
14 MICHELLE LAYTON:

15 Good morning. For the record, my name is Michelle Layton. Along with Miss Donna
16 Selden, I co-chair the Sandy Spring-Ashton Rural Preservation Consortium, or the
17 SSARPC. As our name implies, the SSARPC's mission is to support development in
18 Sandy Spring and Ashton that conforms to the 1998 Sandy Spring-Ashton Master Plan in
19 order to preserve the historic rural villages that Sandy Spring and Ashton are. We are in
20 fact pro-Master Plan, not anti-development. To date, the Ashton Meeting Place and Chevy
21 Chase Bank-approved plans, both in Ashton, have been successfully designed to meet
22 that goal. Much more can be learned about our group, now in its fourth year, at our web
23 site, www.ssarpc.org. Last week, it was determined that there were 2 issues to be
24 discussed today:

25 the compatibility of the proposed plan with the adjacent historic district and the rural
26 character of the surrounding area and the appropriate role for the historic preservation
27 commission--[clears throat] excuse me--or HPC, given the Thomas Building's proximity to
28 the historic district in Sandy Spring. First, on the issue of compatibility, the SSARPC would
29 prefer to see a smaller footprint of the proposed Thomas Building, which sits at the edge
30 of the historic district and at the entryway to the village in Sandy Spring. The building, the
31 first to be seen as one enters the village, will define the entryway. At the planning board
32 hearing for this DPA, we silently applauded when one of the commissioners said that the
33 developer was, quote, "Trying to pack too much on the site," end quote, and that, quote,
34 "if this were not Sandy Spring, I would feel differently--"

35
36 MARTY GROSSMAN:

37 Mr. President?



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1 COUNCIL PRESIDENT ANDREWS:

2 Yes.

3
4 MARTY GROSSMAN:

5 I don't believe that the statements of members of the planning board were actually in the
6 record of this case, as--nor would the testimony before the planning board ordinarily be in
7 the record of this case, because it's not made under oath. And I just don't recall that--that
8 statement being made at the hearing as quoting a planning board member. I may be
9 incorrect, but I don't recall.

10
11 COUNCIL PRESIDENT ANDREWS:

12 We're gonna defer to your judgment since you are most familiar with the case, so please
13 be advised about what has just been said.

14
15 MICHELLE LAYTON:

16 I just have a question. Can I comment...

17
18 COUNCIL PRESIDENT ANDREWS:

19 Yes. Well, you can ask a question of--you can ask a question of why he thinks this.

20
21 MICHELLE LAYTON:

22 Yes. I'm sorry. I can ask that question? I--it-- did it appear in my original testimony?

23
24 MARTY GROSSMAN:

25 In the original testimony you gave at the-- the hearing as to what a planning board
26 member stated? OK. I just didn't recall it.

27
28 COUNCIL PRESIDENT ANDREWS:

29 OK. All right.

30
31 MICHELLE LAYTON:

32 Thank you. And, quote, "If this were not in Sandy Spring Village, I would feel differently
33 than if it was in an urban area than in a rural village." What you're looking at here is slide
34 exhibit 62. Shows the site boundaries from the 1998 Sandy Spring-Ashton Master Plan.
35 The gray area shows the site of the Thomas Building and the black line, the thick, black
36 line, shows the historic district of Sandy Spring, so that you can see the proximity of the 2.
37 We recognize that the tenant, the Goddard School, and its requirement to run efficiently
38 have determined the footprint for this building. Know that we understand that and
39 welcome them to the area. We do, however, feel that the mass and scale of the building
40 can still be reduced to honor their needs. We also believe that the proposed parking
41 structure and building would occupy most of the available site and force the developer to
42 take down all the trees on the property to make room for the storm water management



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1 system. In addition to the size and massing of the building, we believe, too, that the
2 proposed plan for the Thomas Building is not consistent with the very important rural
3 overlay zone because it does not meet the purpose clause of the zone, nor is the plan in
4 conformance with the 1998 Sandy Spring-Ashton Master Plan. The purpose clause for the
5 rural overlay zones reads, "(a) Preserve and enhance the rural village character of the
6 Sandy Spring and Ashton rural village centers by ensuring attractive and traditional
7 pattern of houses, commercial establishments, open spaces, and their relationships to the
8 roadways," and, "encourage a compatible relationship between new and expanded
9 houses or businesses and traditional neighboring structures that reflect the best of local
10 village character, particularly in terms of scale, siting, design features, and orientation to
11 the site." The proposed plan does not ensure the right pattern. The buildings are too big
12 and do not fit into the existing scale and massing. The parking garage, with its 296 parking
13 spaces, nearly quadruples the current amount of parking in Sandy Spring. Shoehorning a
14 parking garage in the middle of downtown Sandy Spring definitely does not preserve and
15 enhance rural village character. Reducing the size of the building will bring a more rural
16 character to the entryway and could also reduce the need for the massive parking garage
17 and possibly allow the developer to keep more of the trees. Additionally, the proposal is
18 not compatible with the existing buildings and space around it. A comparison could be
19 made to the size of the Moore and Bentley buildings, but those buildings, built as 2
20 separate buildings, are not at the entryway of the village, nor can one see them from the
21 road. One must actually turn onto Meeting House Road to see the size and architecture of
22 those buildings. Therefore, while these buildings do seem to set a standard of size and
23 design, they do not sit at the entryway of Sandy Spring, which has its own guidelines in
24 the master plan. The Master Plan consistently uses language like "rural village," "small-
25 scale village design," and in terms of the entryway to Sandy Spring, "entrances to the
26 village center that should help to establish the character of the area," on page 29. This
27 plan reconciles design with the language of the Master Plan as well as the nature of the
28 historic district, the Sandy Spring Village, and the entryway to the village. We believe that
29 it establishes the opposite character that's described in the Master Plan. While this parcel
30 is not a part of the historic district, it is certainly a part of the village, and its proximity to
31 the historic district makes it an integral part of Sandy Spring's sense of place. Add to the
32 fact that 3/4 of this site-- [clears throat]--excuse me--that the parcel is a part of is in the
33 historic district. While the design will be fine-tuned at site plan review, it is important to
34 note now the design guidelines on page 36 of the Master Plan that addresses the
35 entryway as well. It notes the need to preserve the rural entry experience along Maryland
36 Route 108 and to provide the critical rural setting for the Sandy Spring Village Center right
37 at the edge of the village. "At the edge of the village." This is the important term that we
38 address before you today. While the county has determined the boundaries for the historic
39 district, it is impossible to separate the historic district from the history of Sandy Spring
40 Village. [clears throat] The requirement for HPC review finds support in the case of
41 Koskyn????? Washington versus MNCPPC, excuse me, 87 Maryland, 602, 590 A.2d
42 1080 in 1991, in which the court stated, "It defies common sense to require the planning



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1 board to consider building design in a vacuum. Building design can only be evaluated
2 effectively in the context of the environment in which the buildings will ultimately exist." An
3 important consideration of this evaluation is of historical importance on not only the land
4 on which the structures will be built but the adjacent land as well. Therefore, we agree
5 with the recommendation of the hearing examiner that the historic preservation
6 commission, or the HPC, be given the opportunity to review this matter. Since the
7 development plan citing questions largely within the historic district and Sandy Spring,
8 which includes the Quaker Meeting House and the Lyceum and other buildings, we
9 believe that HPC should review this application. The SSARPC also asks that the Council
10 recommend that the HPC be given an opportunity to review this project in a fashion that
11 can

12 have an impact on design. It is the opinion of the SSARPC that to wait until site plan
13 would be too late. In fairness to the developer, it would be unfortunate for him to have
14 done a lot of work on this only to be told by the HPC or the planning board that it won't
15 work because of its proximity to the historic district. The H--excuse me. The SSARPC
16 appreciates the opportunity--excuse me-- appreciates the opportunity that Council has
17 given us to share our concerns today. In short, the proposed building design is not
18 compatible with the surrounding area, and the historic preservation experts should provide
19 input into how this building would fit into the rural historic environmental setting of Sandy
20 Spring before getting to the stage of site plan review. 98. Thank you. Oh. They've got that
21 one, haven't they? That's it. Oh, go back one more. Thank you. What you see in front of
22 you is a picture of Sandy Spring taken 110 years ago, in 1899. You can see the 2 1/2-story
23 Stabler Building, formerly the Montgomery Mutual Insurance building, and the intersection
24 of Route 108 and Meeting House Road. Go to the next slide, please. And one more. This
25 is Sandy Spring today. What you see in front of you is a one-story Sandy Spring National
26 Bank just west of the insurance building of the similar scale. You can see, not with the big
27 cross in the middle, but through the columns of the bank, you can still see that insurance
28 building there. And then one more. It's that watercolor. Yes. That one. Thank you. This is
29 a drawing done by local architect Miche Booz showing a conception of how the entryway
30 building could be built in such a way that respects the rural village character and shows a
31 compatible relationship between the current structures. The very first sentence of the
32 1998 Sandy Spring-Ashton Master Plan reads, "The plan shows in detail land use,
33 transportation systems, community resources, and zoning that represents the strong
34 desire of the community to remain rural." 28 years ago, the Master Plan was written to
35 keep this area rural. 11 years ago, the Master Plan was
36 rewritten to keep Sandy Spring rural, and that commitment is just as strong for historic
37 Sandy Spring and its village center today. Thank you.
38



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1 COUNCIL PRESIDENT ANDREWS:

2 Thank you. And I think you came in under 17, so you certainly have the 3 minutes for the
3 rebuttal. OK. We'll now go on to hear from our other party, and you also have 20 minutes.
4 Do you want...
5

6 MICHELLE LAYTON:

7 We have one more.
8

9 COUNCIL PRESIDENT ANDREWS:

10 Oh, I'm sorry. You're not done. I'm sorry. OK. My fault. I thought that was a lot less than
11 17. All right. Make sure you don't count what I said against their time. Please go ahead.
12

13 ALAN WRIGHT:

14 My name is Alan Wright. Since 1984, I've lived next to the Friends Meeting House
15 property, which is just south of the subject property. I have some pictures, but in the
16 interest of time, I'm gonna skip over most of those just to say that in this rural village
17 setting that you have seen some photographs of already, the developer proposes to drop
18 a development that is simply not compatible with a rural village or a historic district due to
19 its size and which I'm primarily going to focus on, the parking garage. If we could go to the
20 site diagram. Just go through some of the pictures quickly, back, starting from the
21 beginning. Right--go back. Now forward. Right there. This site diagram, there is currently
22 parking for 86 by the existing buildings plus an additional 66... on the western portion of
23 the property, which is the subject property. I can't point to it, but on this building, at the top
24 of the development-- does this work?
25

26 COUNCIL PRESIDENT ANDREWS:

27 There's a-- a pointer has graciously been lent by the other party to-- or by the hearing
28 examiner. OK. There we go.
29

30 ALAN WRIGHT:

31 Here's the building, the proposed building. Behind it, the parking garage. Over on this
32 portion, a playground. And as you can see, there is basically no open space left on this
33 property. There are no views through this lot. There are no pedestrian thoroughfares. The
34 parking garage behind abuts the--the building in the front. It's 12 feet, as noted, at its
35 highest point, which is this back corner. It's ground level here, but because the ground
36 drops away, it reaches, at this point here, 12 feet, which includes the safety wall, which is
37 twice as tall as I am. These are characteristics that are not typical of a rural village.
38 They're more typical of an urban setting. Border to border construction, and I submit a
39 parking garage is not a feature that anyone would associate with a rural village. The
40 Sandy Spring rural village overlay zone requires compliance with the Master Plan, and the
41 basic theme of the Master Plan is the rural village character of Sandy Spring-Ashton. The
42 hearing examiner notes in his report at page 32, quoting 32 of the Master Plan, "Create



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1 small parking areas that are well landscaped. Preserve trees." The next...this is the--this is
2 the view from Meeting House Road through to the park with-- to the parking garage with
3 some trees kind of Photoshopped in which are to be screening for the parking garage.
4 Next. And this is a...this is a diagram of how the--the parking garage would look on the
5 site. This is looking to the east. This is looking from what we just saw a minute ago, where
6 the parking garage would be and the building in the front. I don't think that these proposed
7 trees are going to erase the effect of this structure. This is a massive structure. It's totally
8 out of place in the rural village, which Sandy Spring
9 still is. It will not be hidden by a few trees and it will continue to stick out like a sore thumb
10 in this rural village. With regard to the HPC role, I would just adopt the remarks of Ms.
11 Layton and I would urge the Council that this is a critical stage of this-- of developments--
12 approval process. We keep hearing that this is a very general approval, because at site
13 plan, the, quote, "details," end quote, can be worked out, including everything from size to
14 location to appearance, and the developer could come in with an entirely different plan, so
15 we can't really make any judgments. But the application for a development plan appears
16 intended to be binding on the developer. Section 59H2.53 requires an application to
17 specify, among other things, the location, height, and uses of buildings and structures and
18 the location of parking areas. These are not details to be left to site plan review. The
19 hearing examiner, in his report, recognizes that community members, quote, "have raised
20 legitimate concerns about the importance of Master Plan compliance in order to maintain
21 the rural village character of the area." End quote. But, he maintains, "Master Plans are
22 not usually considered binding but rather are recommendations." At page 44 of his report
23 citing Trail v. Terrapin Run. But that case is different because the Sandy Spring-Ashton
24 rural village overlay zone makes the Master Plan binding. It requires that development be
25 found to be consistent with the recommendations in the approved and adopted Sandy
26 Spring-Ashton Master Plan. And the Trail case itself recognizes that distinction between
27 the usual case where the Master Plan is simply advisory and the case where legislation
28 makes it mandatory. As the hearing examiner stated, the question at this point is whether
29 the proposed development, given its binding elements, can be made consistent with rural
30 village character after its design is completed at site plan. I do not believe the parking
31 garage can be consistent, no matter how you dress it up. And this is especially so
32 because Mr. Nichols himself has explained to us that there is no room in his plans to alter
33 his concept to make this project consistent.

34
35 COUNCIL PRESIDENT ANDREWS:
36 Go ahead.

37
38 MARTY GROSSMAN:

39 I'm not--I don't recall there being any testimony about what Mr. Nichols had to say. That's
40 not--I don't believe in the record of this case at this time.

41 ALAN WRIGHT:

42 Well, my recollection differs. It's in my written as well as my verbal testimony.



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1
2 COUNCIL PRESIDENT ANDREWS:

3 All right.

4
5 ALAN WRIGHT:

6 In any case... he needs the--he needs the tenant to anchor the development. 196 children
7 through kindergarten age. But this requires all the rooms to be on the ground floor, and
8 therefore, the footprint of the building leaves no room for parking. So he has to build a
9 second tier of the parking garage. The second tier--

10
11 COUNCIL PRESIDENT ANDREWS:

12 You're gonna need to wrap up in a sentence or two.

13
14 ALAN WRIGHT:

15 I'll...

16
17 COUNCIL PRESIDENT ANDREWS:

18 Or you can reserve your time.

19
20 ALAN WRIGHT:

21 I'll just stop and reserve the time for rebuttal.

22
23 COUNCIL PRESIDENT ANDREWS:

24 OK. Thank you very much. OK. We're now gonna hear from our other party, and they also
25 have 20 minutes. Would you like to reserve any time?

26
27 PAT HARRIS:

28 If I'm permitted to, yes...

29
30 COUNCIL PRESIDENT ANDREWS:

31 We do not reserve time for the-- All right. OK. I guess the procedure is generally that
32 you're not allowed to reserve the time, so you have 20 minutes.

33
34
35 PAT HARRIS:

36 Thank you. I'm Pat Harris of Holland & Knight on behalf of the applicants Stabler 1848,
37 LLC. The schematic development plan amendment is to construct a 35,000-square-foot
38 building referred to as the Thomas Building. The ground floor is to house the well-
39 respected Goddard School and the top floors will be office. The site was identified as ideal
40 for the Goddard School after discussions with the community members, civic leaders, and
41 Park and Planning staff. The zoning's somewhat complicated, and I'll be happy to explain
42 in more detail if requested, but in short, we comply with the development standards of the



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1 O.M. zone, which is moderate intensity; the Sandy Spring-Ashton Rural Village overlay
2 zone; and the C.T. zone development standards. As a result of extensive meetings with
3 the community and discussions with the planning board, the applicant has agreed to 11
4 binding elements and 5 site plan notes. Among these, that the building will be reduced
5 from 40,000 to 35,000 square feet; that the western portion of the building will be shifted
6 back 50 feet. That will lower the height from 3 stories to 2 for that portion that's being
7 shifted back and to 2 1/2 for the remaining portion. It's important to note that the applicant
8 is not at the point in the approval process where the building has been architecturally
9 designed. The purpose of the schematic development plan is simply to impose further
10 restrictions to the development standards of the zone. I'm gonna first address the HPC
11 issue. The hearing examiner's report recommended approval of the Thomas Building
12 project subject to the planning board referring the site plan and subdivision to the HPC in
13 order that it may determine its jurisdiction or review the proposal as appropriate. The
14 condition's outside the historic preservation law and lacks a legal basis. As we noted
15 during the ZHE hearing, we're concerned about the precedent that this could set. As will
16 be explained more fully, the HPC would have jurisdiction over the property if the entire 3
17 parcels comprising the property were designated a historic site or if all 3 were within the
18 environmental setting. While parcel A, which is improved with the Montgomery Mutual
19 building, is located within the historic district, the 2 other buildings on which the Thomas
20 Building is proposed are outside the historic district and are not a part of the
21 environmental setting. The HPC staff position on this is revealing. The section supervisor
22 affirmed that a historic area work permit, which is a mechanism that gives HPC review, is
23 not required given that no work is being conducted within the boundaries of the Sandy
24 Spring historic district. There's no room for debate on this point. The development occurs
25 either within the district or outside the
26 district. The Thomas Building parcels are outside the district. The second issue in
27 determining the HPC review is whether it is occurring within the environmental setting.
28 The Thomas Building parcels are not part of the environmental setting of the historic
29 district. In connection with the establishment of the district, the HPC, the planning board,
30 and the Council all evaluated and reviewed the proposed historic district boundaries. The
31 country drew the historic district boundaries where they did and the 2 parcels upon which
32 development is now proposed are outside the district. If the Council wanted development
33 on the subject properties to be reviewed by the HPC, they would have included those
34 parcels within the district. The Montgomery County Code defines "environmental setting"
35 as the entire parcel as of the date on which the historic resource is designated in the
36 Master Plan. Parcel A of the property, which is the developed portion, is the entire parcel
37 within the district. We note that environmental setting is not defined as the land area
38 subject to a schematic development plan. If the Council had determined that the area
39 outside the historic district was to be part of the environmental setting, they would've
40 specified this, and this is absolutely clear if you look at the Master Plan, which specifically
41 identified in the case of 13 of the 15 historic resources an environmental setting complete
42 with the precise acreage. In contrast, there's no mention of an environmental setting for



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1 the historic district, and further, it's illogical to prescribe an environmental setting to a
2 historic district.

3 If the area is supposed to be part of an environmental setting, it would've been included
4 within the district. Finally, a condition that this matter must be formally considered by the
5 HPC at subdivision and site plans unnecessary, given that the matter will automatically be
6 referred to HPC staff in the ordinary course of review of the site plan and the preliminary
7 plan. To conclude this portion, discussion, it's clear the HPC has no role in review of this
8 case. However, this is by no means cause for concern. The planning board, which is the
9 body most well equipped for evaluating compatibility, has a very involved role by virtue of
10 the fact that we're going forward with a site plan and preliminary plan, and they need to
11 approve that. It's the applicant's position that the Thomas Building property is not subject
12 to HPC review and that the zoning hearing examiner's condition should be eliminated. It's
13 overreaching for one branch of government to impose a condition or grant specific
14 authority to another branch when the authority is clearly outside the law. This leads me to
15 the second issue, which is the compatibility discussion.

16
17 MARTY GROSSMAN:

18 Mr. President, I think it should be noted here that this is contrary to what counsel stated at
19 the hearing, that is, counsel made a legal argument that she made here, but indicated that
20 the petitioner, the applicant consented to the condition which I have included in the
21 recommendation-- the resolution.

22
23 PAT HARRIS:

24 I would note on that point that we made an elaborate discussion at the-- at the--below, at
25 the hearing examiner, about the--the historic preservation issue, and we only--and I think
26 reluctantly conceded. We did not request oral argument on the HPC issue, however,
27 counsel requested it, and so I feel compelled that I need to reiterate the legal arguments I
28 made below on this point. And it was our intention to, if in fact the condition remained,
29 we'd make these exact same arguments to Park and Planning Council that the HPC
30 doesn't have review.

31
32 COUNCIL PRESIDENT ANDREWS:

33 OK. So, Mr. Hearing Examiner, is that acceptable?



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1 MARTY GROSSMAN:

2 I think it's accurate that in fact she did argue what she argued here today, but at the time,
3 she agreed that the applicant would--would agree to the condition which I have included in
4 the resolution.

6 COUNCIL PRESIDENT ANDREWS:

7 OK. Thank you for the clarification.

9 PAT HARRIS:

10 In terms of compatibility, the properties located within the rural village overlay zone, which
11 is intended to preserve and enhance the Sandy Spring Village Center. The overlay
12 imposes additional restrictions and constraints on what would otherwise be built and
13 expands the planning board's site plan review authority to ensure compatibility. Meeting
14 the overlay requirements of a-- in meeting the overlay requirements, a project implicitly
15 provides a level of compatibility consistent with the rural village objectives. The first step in
16 evaluating compatibility is therefore confirming that the project-- project meets the object
17 development standards of the applicable zones. In terms of the use, the proposed building
18 and the parking structure are permitted uses. The overlay zone identifies specific uses
19 which are prohibited, and a parking facility is not one of these. In fact, the planning board
20 just last year approved a parking structure in the Ashton Village, another area which is
21 subject to the overlay zone. The opponents argue that the structure is contrary to the
22 concept of the rural overlay zone. The reality is any development on this site will require a
23 parking structure. Further, given the recommended .75 F.A.R. of the overlay zone, parking
24 structures must have been contemplated in connection with the zone. In terms of the
25 density, the overlay zone permits a .75 F.A.R. and the schematic development plan
26 amendment results in a total F.A.R. of only .42. In terms of minimum green area, this
27 project provides 5 times the amount

28 that's required. The height-- it's consistent with the height requirement of 30 feet, and we
29 also comply with the building coverage. The first--I'm gonna first focus on the building and
30 then I'll move on to the parking structure. The proposed building is very compatible to the
31 other surrounding buildings. The most instructive is the Montgomery Mutual building. It's
32 part of a subject schematic development plan and it's located on those parcels that are
33 within the historic district. It's the same general design--it's 2 1/2 stories with dormers. It's
34 larger by 10,000 square feet. It's also longer by 10 feet and it's the same height as what
35 we're proposing. The question we pose:

36 if this building, which is within the historic district, is compatible, why is not the subject
37 Thomas Building? There's also other 2 1/2-story buildings in the neighborhood of the
38 subject site, including the old fire house, which is across Route 108, and the Stabler
39 Building. The F.A.R.s of the surrounding sites are also comparable. They range from a .7,
40 and that's on a smaller site, to several that are .4 on the east side of Brooke Road, and
41 the old fire house is a .3 F.A.R. Again, the subject is .42 F.A.R. Mr. Booz, the opponents'
42 representative who is qualified as an expert in architecture, testified that given some of the



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1 other larger buildings in Sandy Spring, the proposed building was not unusual. And then
2 he went on to note that the devil is in the details. However, we are not at the details stage
3 of the process. That's what's provided at the site plan. And unlike development plans that
4 come before the Council and which include lots of building details, this is a schematic
5 development plan. The purpose of a schematic development plan is to offer further
6 limitations to the zoning development standards to help ensure compatibility. For instance,
7 while 3 stories is the maximum permitted in this zone, we are imposing a limitation on
8 ourselves of 2 1/2 stories. With respect to the parking structure, the applicant has taken a
9 66-space surface parking lot and reduced the number of at-grade parking spaces to 55 in
10 order to reduce the surface area, and we've relocated the remaining parking below grade.
11 75% of the parking will be below grade and thus not visible. We view this as a benefit.
12 Consistent with the Master Plan recommendations, the parking's located in the back of the
13 building not visible from Route 108 with access provided from the existing access points
14 Route 108 and Meeting House Road. At 108, you drive in at the same elevation and you
15 can either go to the parking surface or you can dip down to below grade--to the below-
16 grade portion of the parking. The building has been oriented toward 108 pursuant to the
17 Master Plan recommendation and the school is to occupy the first floor of the building.
18 The surface level of the parking is to be located at the same level as the school, which
19 only makes sense, and which is at the same elevation as 108. The bottom level of the
20 garage has been sunk down as much as possible, given grades, drainage, and
21 mechanical considerations. Those portions of the parking structure that will be above
22 grade will be clad in either brick or cultured stone. The result, and I'm gonna walk you
23 through the perimeter of the building, is that a portion of the parking is tucked under and
24 below grade and is not visible. But starting at the north at 108, the structure's at grade, as
25 I've mentioned. As you move east, the property slopes down to the south and so at its
26 maximum, there's 9 feet of the parking structure that will be from that side. And then along
27 the south, the parking structure will range from 9 to 12 1/2 feet. And at the north--
28 southwest corner of the site, it reaches its maximum of 12 1/2. And then as you move
29 back toward 108, and given the slope back up, it's--the parking structure will be 4 feet. In
30 terms of visibility, while opponents state emphatically that the property is at the edge of
31 the village, the fact is that the village boundary is 1,000 feet to the west. In any event, one
32 will not be able to see the parking structure from 108 as you're approaching from the west.
33 Mr. Wright himself testified to this. As you're approaching the site from the west, you'll only
34 gradually see the building, and its impact is minimized by the fact that the western portion
35 is set back 50 feet. From Meeting House Road, and this is headed north toward 108, as
36 you approach, you have the back of the existing building, which is on the east side of
37 Meeting House Road, and then you have the subject to the left--to the west, which is on
38 the left. The parking structure is 300 feet--
39 size of a football field--from Meeting House Road. And further, given the topography and
40 the landscaping, and that includes 10-foot trees at the time of planting, the majority of the
41 facade will be concealed, and we expect that the entrance itself will be difficult to see, and
42 I think this--what you see on the screen now definitely demonstrates that. It's only when



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1 you turn into the parking-- drive aisle from Meeting House Road and head down the entry
2 do you start to become aware that there's even a parking structure there. Today, from
3 Meeting House Road, the existing surface parking lot is visible. Now, moving on to the
4 south, it is 55 feet from the townhouses along the southern part to the south of the
5 property through a 25-foot landscaped buffer to the stone or brick facade of the parking
6 structure. And from this point. no cars will be visible. Incidentally, I would note that of the
7 townhouses that you see to the south of the property, we've not had anyone who lives in
8 those townhouses opposing the project. From--
9

10 MARTY GROSSMAN:

11 There were 2 witnesses from that townhouse project, one of whom is--was an official in
12 the association, but was there--because he hadn't given notice, was there on his personal
13 behalf. I don't recall whether he lived in the--the townhouses to the south or immediately
14 to the west of the project. There was another lady also from that--that project. So there
15 were 2 who opposed from that townhouse project, who opposed this development. They
16 have no requested oral argument here.
17

18 PAT HARRIS:

19 And that is correct, and I didn't mean to give an impression otherwise. The 2 people that
20 opposed lived in the townhouses on the west, which is 75 feet from the parking structure
21 and 85 feet from the building, but I'll get to that in a moment.
22

23 COUNCIL PRESIDENT ANDREWS:

24 OK.
25

26 PAT HARRIS:

27 In fact, I'll get to it right now. From the west, there's 75 feet from the facade of the parking
28 structure to the townhouses. From the building itself, it's 85 feet. We've retained 25-foot-
29 wide-- a 25-foot-wide tree stand which will be supplemented with infill trees. And then
30 adjacent to this tree stand there's an additional 25-foot landscaped area, under which is
31 the storm water management, which will be planted with non-tree native species. Then
32 there's a playground which is located in between the surface parking facility and the
33 townhouse property. So as a result, there's 167 feet--and to go back to my football
34 analogy--half of a football field from the townhouse to the surface parking. Then, finally, I
35 want to just note, the storm water management issue and the tree issue. Originally, the
36 storm water management was to be accommodated on an existing pond on the east side
37 of the-- on the eastern portion of the property. However, DPS rejected
38 this proposal. The site drains in 2 different directions and it's DPS' policy that rain which--
39 rainfall must be collected within the basin in which it falls. As a result, we proposed and
40 DPS accepted a storm--a proposed underground
41 storm water management to be taken care of on the western portion of the property. As I
42 just noted, we would be retaining 25 feet of the existing tree stand and then the additional



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1 25 feet would be improved with non-tree planting. Thus, there's a total of 50 feet of
2 vegetative plantings, and we think that this provides a sufficient buffer for a structure that
3 is 75 feet away and which has heights ranging from only 4 feet to 12 feet. I'd also note that
4 the environmental staff has approved the NRI and the preliminary forest conservation plan
5 for this project, and Community-Based Planning, which is the department that writes the
6 Master Plans, recommended approval of the schematic development plan, thus finding
7 the compatibility exists. And then perhaps most importantly, I want to note that this is with-
8 -the property's within the village. It's not on the outskirts of the village. And one of the
9 objectives of the Master Plan and specific recommendations is to encourage development
10 and revitalization of the village center in order to remain vibrant and active, especially
11 during the day. In every development case, there's a question of balancing of
12 objectives that are required-- that are set forth in the Master Plan. I want to close with
13 noting that we understand the opponents' general reluctance for any further development
14 on the site. However, the reality is that the Master Plan contemplated additional
15 development, and the applicant has demonstrated that the development will be
16 compatible with the surrounding area. I'll conclude with a quote from the Master Plan
17 that's instructive, and that is "The inclusion in the historic district of the Montgomery
18 Mutual Insurance Company property was not intended to preclude new development on
19 the site or restrict the allowable development--density of development." And that was a .5.
20 "Rather, the intention was and continues to be to assure that the high standards of
21 sensitive design, which have been established by the 1977 Montgomery Mutual building,
22 yet be carried out in the construction of other buildings on this site." Thank you and I'd be
23 happy to answer any questions.

24
25 COUNCIL PRESIDENT ANDREWS:

26 OK. Thank you very much. All right. And...I'll now go back to our other representatives so
27 they can use their 3 minutes if they choose.

28
29 MICHELLE LAYTON:

30 I just have a couple points to rebut. While the--and they may or may not be in any
31 particular order, so I apologize about that--

32
33 COUNCIL PRESIDENT ANDREWS:

34 That's fine.

35
36 MICHELLE LAYTON:

37 While the entrance to Sandy Spring might be 1,000 feet away, this is the very first
38 structure that someone would see one they enter the village of Sandy Spring, so it will set
39 the tone for what they will see once they've passed that spot moving into the historic
40 district, which is only a couple feet away. The Montgomery Mutual building, like I already
41 had noted, was-- is not at the entryway. It is down Meeting House Road a bit so that you
42 don't see it from the road. And while it is certainly larger than I would have wanted to see



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1 back when it was built, it is what it is, but it is not right on the main road, nor at the
2 entryway. Buildings in Sandy Spring are small. Business and houses in Sandy Spring are
3 small in that part of the village, and once again, going back to the case that we cited, you
4 can't build a building in a vacuum. The adjacency to this site, to this parcel, being so
5 close, literally right next to the historic district, has to have an impact on what people see,
6 how they live, what they're used to, why they moved there. We disagree that it is not a
7 part of the environmental setting and...I would say that in the end, one thing that Ms.
8 Harris noted was that we didn't--that the community-- or the opposition doesn't want to see
9 any further development on the site, which is not true. As I--as I stated from our group,
10 that we're not anti-development, we are just pro-Master Plan. While we recognize that
11 there probably will be a building on that site, we want to make sure that it fits in and that it
12 belongs there and it looks like it's supposed to be.

13
14 COUNCIL PRESIDENT ANDREWS:

15 OK.

16
17 ALAN WRIGHT:

18 I would just like to add that I think the Council's decision in this-- at this phase is critically
19 important, because I don't think the developer has any room to change his plans. He
20 needs-- the tenant needs 12,000 square feet. That's why they need the parking garage.
21 The garage is too--too expensive to be supported just by a school, so he's added office
22 space. The office space itself requires additional parking spaces, so he has to have the
23 parking garage, and the parking garage and the building are on a lot on which the parking
24 from the other building that you've seen was planned. And the reason why that other
25 building is so beautiful in spite of its size is because they moved the parking around the
26 corner. That's why you have lovely lawns and landscaping and bushes that make it very
27 compatible despite its size. And Ms. Harris asked if that building is not--is compatible, then
28 why isn't the proposed building? Well, it's because the proposed building is shoehorned
29 into a little spot, and the other building was built with lots of room and spaciousness as
30 befits a rural village.

31
32 COUNCIL PRESIDENT ANDREWS:

33 OK. Thank you.

34
35 ALAN WRIGHT:

36 Thank you.

37
38 COUNCIL PRESIDENT ANDREWS:

39 All right. Well, that concludes the formal oral argument by the parties, and now I'm going
40 to see if my colleagues have comments or questions, and they do. Council Vice President
41 Berliner.



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1 COUNCIL VICE PRESIDENT BERLINER:

2 I do think there are some interesting legal issues here, and let me explore some of them
3 with our hearing examiner and with Miss Harris. Miss Harris, I appreciate that you didn't
4 ask for oral argument, and I also appreciate that you had agreed to the particular condition
5 with respect to the--referring this matter to the HPC. The hearing examiner, did you
6 conclude that it was the environmental setting issue that ought to be referred to the HPC?
7 Specifically, what was the nature of your conclusion that this matter should be referred to
8 the HPC?
9

10 MARTY GROSSMAN:

11 Two things. One is that the HPC statute itself contains the following language, in section
12 24A-5j, that "part of the role of the HPC is to advise the Planning Board in the event of
13 subdivision of land containing an historic resource on the appurtenances and
14 environmental setting necessary to preserve it." I felt that, number one, that this was land
15 containing an historic resource because half of the entire site, albeit not the part that's
16 going to be dug up here, has the historic district on it. Secondly, the definition in the
17 historic preservation statute of the... of the environmental setting is as follows--this is in
18 section 24A-2. "Appurtenances and environmental setting. The entire parcel, as of the
19 date on which the historic resource is designated on the Master Plan and structures
20 thereon, on which is located an historic
21 resources, unless reduced by the district council or the commission and to which it relates
22 physically and/or visually, appurtenances and environmental setting shall include but not
23 be limited to walkways and driveways, whether paved or not; vegetation, including trees,
24 gardens, lawns, rocks, pasture, cropland, and waterways." I took from that language
25 about, number one, the entire parcel, to include the entire site here, number one, first
26 because it's part of an entire site as it's before the council, and two, because that
27 subdivision, this may all become one parcel by definition. Secondly, I took the language
28 that it relates physically and/or visually to mean that this property would relate physically
29 and/or visually to this historic district. I have to say that the staff of this Historic
30 Preservation Commission, which is actually part of the technical staff of the Maryland
31 National Capital Park and Planning Commission, found that it was not to be reviewed by
32 the Historic Preservation Commission, so we disagree, and they had sent a couple of
33 memos, which are in the record, indicating they did not believe this should go to the
34 Historic Preservation Commission.
35



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1 COUNCIL VICE PRESIDENT BERLINER:

2 Let me interrupt you and just make sure I understand that point, because it does seem
3 somewhat relevant. Staff of the Historic Preservation Commission?
4

5 MARTY GROSSMAN:

6 That's correct. The way it's set up is--and it's an unusual setup, I think--is that the Historic
7 Preservation Commission, if I understand it correctly, does not have its own staff. Its staff
8 is the Historic Preservation Division of the technical staff of the Maryland National Capital
9 Park and Planning Commission, and they have some kind of pay exchange arrangement,
10 and so that staff does not believe that this project should go to the Historic Preservation
11 Commission. I disagree based on my reading of the statute, and we debated it at the
12 hearing as was outlined by counsel for the applicant, and in any event, ultimately she
13 agreed to the provision I suggested, that it should go to the HPC to have it determine its
14 own jurisdiction not based on the staff alone but that the HPC itself would make that
15 determination, and then if it found it had jurisdiction to then review the substance of this.
16

17 COUNCIL VICE PRESIDENT BERLINER:

18 And I presume, Miss Harris, that should this condition continue to be in this...result and
19 should the HPC conclude that it does have jurisdiction, that that matter would be subject
20 to court review insofar as this is establishing--to what extent are we establishing legal
21 precedent with respect to this? Is this a matter, in your judgment, that would establish a
22 legal precedent?
23

24 PAT HARRIS:

25 Within the 4 corners of the law, I think this is outside the law. I don't see any authority for
26 the HPC to review this.
27

28 COUNCIL VICE PRESIDENT BERLINER:

29 Let me understand this, because I don't get where the 4 corners of the law are corners,
30 because I don't understand how the concept of "environmental setting" is so rigidly
31 defined that this cannot be a matter of some subjective judgment as to what is or is not
32 within the context of environmental setting. So--
33

34 PAT HARRIS:

35 I think--
36

37 COUNCIL VICE PRESIDENT BERLINER:

38 Because when I heard your argument, with the greatest respect, I did not find it
39 persuasive on that point, as a matter of law, that this could not possibly be considered part
40 of the environmental setting.
41

42 PAT HARRIS:



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1 I may perhaps agree with you but for the fact that if you look at the fact that the Master
2 Plan lists 15 historic resources, and it laboriously goes through each one of those historic
3 resources, and on 13 of them, it says "environmental setting--consider this," and it will give
4 a specific acreage. It was deliberately thought-out with every historic resource, whether an
5 environmental setting would or would not be included in that instance. And when it got to
6 the historic district, they determined that it wasn't and it didn't need one, and I would--
7 again, what I would note is that a historic district is a number of individual components that
8 are put together and then circumscribed by the district. To then add an environmental
9 setting around the district--it just seems it's redundant, to some respect. I think that
10 calculation and decision went into forming the boundaries of the district. And I would also
11 note that the language that the Hearing Examiner notes about--and which relates
12 physically and/or visually--I read that to mean that it's contracting, potentially, what the
13 environmental setting could be. And let me just give one analogy as well. If you had a
14 100-acre site that was subject to a schematic development plan and composed of 10 lots
15 and on one corner lot you had a farmhouse, under the hearing examiner's interpretation,
16 the entire 100 acres would be considered the environmental setting. I find that
17 implausible.

18
19 COUNCIL VICE PRESIDENT BERLINER:

20 With the greatest respect, I don't believe that the Hearing Examiner has made that
21 determination. I believe the Hearing Examiner has made the determination that this is an
22 issue that ought to be decided by the Historic Preservation Commission as to what is or is
23 not within the environmental setting of this historic district.

24
25 PAT HARRIS:

26 I think he's making that suggestion because of--what I just said was his basis for making
27 that decision. I mean, the analogy that I just gave is no different than what we have here.
28 We have two separate--separate legal parcels. Each one has its own tax I.D. number. The
29 historic district exists--is the property on which the Montgomery Mutual property is--

30
31 COUNCIL VICE PRESIDENT BERLINER:

32 I'm just--

33
34 PAT HARRIS:

35 And we are a separate tax--a separate legal parcel. I mean, it's not even within--it's not
36 the entire parcel. It's the entire land area subject to the schematic development plan, but
37 that's not what the law says.

38
39 COUNCIL VICE PRESIDENT BERLINER:

40 Mr. Hearing Examiner.

41 MARTY GROSSMAN:



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1 Yes, if I may. This is an unusual case because the site itself includes the historic district,
2 so what's before the council here--that's why I don't think this will set an unusual
3 precedent. Number one, it's not a rezoning case; it's a schematic development plan
4 amendment case. Secondly, the site itself includes the historic district, and that's why it
5 seems to me in this unusual circumstance, it's one where the HPC ought to be
6 determining whether or not it has jurisdiction to review this case, in spite of what its staff
7 says. I should say, one of the main issues here has been the timing certainly raised and
8 pressed by Mr. Wright at the hearing and mentioned here by both Mr. Wright and Ms.
9 Layton, feeling that this matter should go to the Historic Preservation Commission before
10 the Council acts here. I felt, for two reasons, that that should not happen. One is that a
11 statement I read originally as to the role of the HPC, which says in subsection J, "to advise
12 the Planning Board in the event of subdivision," which will be happening in this case--
13 subdivision--and I felt that that, number one, indicated the proper timing of when this kind
14 of matter went to the Historic Preservation Commission, and secondly, the people's
15 counsel strongly advocated that this be timed to go at subdivision and site plan rather than
16 before because of the details that would then be available for them to evaluate and that
17 that is the past practice, in this case. So for
18 those reasons, I think the timing should take place as I have recommended.

19
20 COUNCIL VICE PRESIDENT BERLINER:

21 Thank you. Let me ask one question of the proponent of oral argument here. It isn't clear
22 to me, having listened to this argument, why Park and Planning at site plan is not fully
23 competent to address your concerns with respect to the nature of this building and
24 whether it is appropriately sized, and with the greatest respect, I did not find the notion
25 that this would be a disservice to the developer to have the decision wait to that point in
26 time to be particularly persuasive. So I need to understand why it is that site plan isn't
27 actually the right place for this decision to be
28 made, given the nature of the engineering and architectural detail that will then be
29 available.

30
31 MICHELLE LAYTON:

32 Let me just clarify. We do differ in where we sit on when the review should take place. We,
33 our group, the SSARPC, believes that it should take place--that the developer should
34 have that information before going to site plan. It doesn't necessarily mean before today or
35 before you make your decision. It just means that it would be unfair for him to--I mean, we
36 really just do really believe that it would be unfair for him to have to go through all of this
37 rigmarole and all of the planning to turn around at site plan and then say, "Too close to the
38 historic district. Sorry. Now you have to go back." I think Mr. Wright's position is a little
39 different.

40
41 ALAN WRIGHT:



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1 If I might, I pick up right where Michelle leaves off. If indeed it makes no sense to go
2 through, develop a detailed proposal and then be told, "Sorry, this doesn't meet the
3 criteria," why not deal with it now? I think the Council has a very important role to play
4 right now at this stage. Once you approve this, it's gone. You'll never see it again. The
5 staff will deal with it, and they'll make the detailed changes, whatever they're going to do.
6 But this is a determination that affects compatibility, and I think there are two issues that
7 are involved with the Historic Preservation Commission. One is whether they have to
8 issue a historic area work permit, and the other is as the Hearing Examiner quoted, from
9 24A, "the role of the HPC to advise the Council regarding development of land containing
10 an historic resource," and that includes compatibility, and I think whether or not this
11 requires a historic area work permit, it may not be compatible with the surrounding area
12 for whatever reason, historic or otherwise, and if that's the case, then under the Master
13 Plan, this application should be denied. And I think this is the place to do it, not at site plan
14 review.

15
16 COUNCIL VICE PRESIDENT BERLINER:

17 I appreciate your point of view. Thanks.
18

19 MARTY GROSSMAN:

20 Mr. Berliner, if I might, on that point of whether it's the Council or the Planning Board, Mr.
21 Wright had referred to the overlay zone and how it makes the Master Plan mandatory. As
22 I mentioned in my report, the overlay zone has very specific provisions here which make
23 the Planning Board the central point of analysis. In section 59c18.184, it says "in the
24 course of site plan approval, the Planning Board must make a finding as to whether or not
25 the proposed development substantially conforms with the design guidelines for the new
26 development contained in the approved and adapted Sandy Spring-Ashton and Master
27 Plan." And section 59c18.186 provides that, under Planning Board approval, "the
28 procedures for Planning Board approval under section 59d3.4"--which would be the site
29 plan approval--"are modified for this overlay zone to require the following additional
30 findings--"A," the site plan is consistent with the recommendations in the approved and
31 adopted Sandy Spring-Ashton Master Plan. "B," the site plan meets all of the
32 requirements of this overlay zone, as well as the applicable requirements of the underlying
33 zone, and "C," each structure and use is compatible with other uses in other site plans
34 and with existing and proposed adjacent development." So it's very specific on making it
35 the role of the Planning Board to make this kind of a review as to the Master Plan and as
36 to compatibility in this case.
37

38 COUNCIL VICE PRESIDENT BERLINER:

39 I appreciate your comments on that. That's certainly my view as well. Thank you.
40

41 COUNCIL PRESIDENT ANDREWS:

42 Thank you, Council Vice President Berliner. Councilmember Floreen.



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1
2 COUNCILMEMBER FLOREEN:

3 Thank

4 you. Well, I'm glad I asked that we talk about this issue. There seems to be a lot to be
5 said on the issue of the role of the HPC. I think it's a really important issue for us. You
6 know, we establish historic districts in other situations based on these kinds of property
7 owner concerns or neighbor concerns--you know, what is it that the Council is designating
8 and why? And we've wrestled with the issues of, what's an environmental setting? What
9 should be in the district? And, you know, it's not a simple exchange by any means, and it
10 was helpful, Mr. Hearing Examiner, to hear you--you were reading the overlay zone to us?

11
12 MARTY GROSSMAN:

13 Yes. I was reading from the overlay zone.

14
15 COUNCILMEMBER FLOREEN:

16 Is that in our packet, the actual language, or just referred to?

17
18 MARTY GROSSMAN:

19 I believe I quoted it in my--

20
21 COUNCILMEMBER FLOREEN:

22 OK.

23
24 MARTY GROSSMAN:

25 In my report.

26
27 COUNCILMEMBER FLOREEN:

28 So basically that says the Planning Board makes all these calls and weighs all this at a
29 point-- site plan?

30
31 MARTY GROSSMAN:

32 Yes, at site plan.

33
34 COUNCILMEMBER FLOREEN:

35 That's what it refers to?

36
37 MARTY GROSSMAN:

38 Site plan and subdivision, and that's the way I interpreted it.

39
40 COUNCILMEMBER FLOREEN:

41 OK. Well, I would like to understand what each of you think the Historic Preservation
42 Commission would do, what role they would add to this, given the fact that the Planning



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1 Board has been explicitly designated, through the overlay zone, to weigh all this stuff. So
2 I'll start with Mr. Wright. What would your expectation be of the next step? There appears
3 to be some differences of views as to who weighs in at what point.

4
5 ALAN WRIGHT:

6 First of all, I disagree with Mr. Grossman.

7
8 COUNCILMEMBER FLOREEN:

9 OK.

10
11 ALAN WRIGHT:

12 Because I know that the Planning Board does have that review authority, but this is also a
13 schematic development plan amendment, which is part of the--it's an optional method
14 rezoning, as I understand it, in which the Council's role is to approve that amendment.

15
16 COUNCILMEMBER FLOREEN:

17 Yeah.

18
19 ALAN WRIGHT:

20 To the rezoning.

21
22 COUNCILMEMBER FLOREEN:

23 That's us.

24
25 ALAN WRIGHT:

26 And you have to make some preliminary, initial findings that this is compatible, that it is--
27 when they require the application to specify location, height, and uses of the buildings and
28 structures, location of parking areas, I think it's implicit that this has to be in accordance
29 with the proposed Master Plan and all the other regulations that are going to follow later.
30 You don't just leave all this to the Planning staff.

31
32 COUNCILMEMBER FLOREEN:

33 I think we take that issue very seriously. May I ask, though, what you think the Historic
34 Preservation Commission, then, would--what additional function they would perform. I
35 mean, if we make a call yea or nay or whatever conditions at this stage, delegate it to the
36 Planning Board to sort out, you know, the rest of the details, what would you expect HPC
37 to do?

38
39 ALAN WRIGHT:

40 I think two things. I think they should advise the Council, and that's why I think it would be
41 useful for the Council to have their input before you make your decision with regard to
42 development of a land containing an historic resource, and that advice may or may not,



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1 depending on whether it's ultimately determined that a historic area work permit is
2 required, may have some teeth. If it's determined that a historic area work permit is
3 required and they say, "Sorry, we're not issuing it," then the developer doesn't go forward.

4
5 COUNCILMEMBER FLOREEN:

6 So you would at least raise the issue at some point that a historic area work permit is
7 required and expect a full hearing before HPC at some point, or I don't know, before the
8 Planning Board heard it?

9
10 ALAN WRIGHT:

11 I haven't thought that far ahead.

12
13 COUNCILMEMBER FLOREEN:

14 Yeah, OK.

15
16 ALAN WRIGHT:

17 That's a possibility.

18
19 COUNCILMEMBER FLOREEN:

20 Something like that. You would expect a very full, robust review by HPC.

21
22 ALAN WRIGHT:

23 Yes.

24
25 COUNCILMEMBER FLOREEN:

26 OK. Ms. Layton, is that where you are in this? No, you are--

27
28 MICHELLE LAYTON:

29 Very simply, because of the proximity of this building to the historic district, we would like
30 to see--and the fact that this is an entryway building--it's the first building that anyone sees
31 when they enter the village of Sandy Spring--we would like the HPC to review it and
32 advise the Planning Board in terms of size, massing, compatibility, and design.

33
34 COUNCILMEMBER FLOREEN:

35 So you wouldn't expect a historic work permit, but you'd want their more explicit advice on
36 some of the details.

37
38 MICHELLE LAYTON:

39 Exactly.

40
41 COUNCILMEMBER FLOREEN:

42 And Ms. Harris, what would you expect to occur?

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PAT HARRIS:

Well, one is--

COUNCIL PRESIDENT ANDREWS:

Press your mike, please.

PAT HARRIS:

Oh, sorry. In terms of the taking it at this juncture, which Mr. Wright's suggesting, all we're doing right now is adding further narrative to the zoning ordinance to restrict the requirements. There's nothing to review, and as we said, there's no architectural design to this building, so it's totally premature. What I would add is what the Planning Board is going to do, and Miss--I'm sorry. Michelle, Ms. Layton, notes that the project can't be reviewed in a vacuum, and the Planning Board's not gonna review it in a vacuum. They will and they should consider the fact that yes, the historic district is right next to this property. They do that routinely. But we're not within the historic district.

COUNCILMEMBER FLOREEN:

So you would reserve your right to raise this whole issue of jurisdiction again with the HPC?

PAT HARRIS:

Absolutely.

COUNCILMEMBER FLOREEN:

OK. Mr. Grossman, what problem does a referral to HPC solve, in your mind? I mean, it seems to me we're the ones that--well, not us, but someone sitting up here decided what was the overlay zone, approved the Master Plan, and drew the lines for the historic district. So we apparently wrote a lot of language for the function of the Planning Board in this regard, weighing a lot of this stuff. So why would we ask HPC at this point what they think about whether they should get involved or not? Why would we ask them? It seems to me--we could tell them to look at it, but why would we ask them?



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1 MARTY GROSSMAN:

2 Because I think that's the way the Council set up the statutory scheme--that is, you set up
3 an Historic Preservation Commission, presumably with the authority to make some
4 determination about which matters before it are appropriate to be before it.

6 COUNCILMEMBER FLOREEN:

7 Would we tell them? Wouldn't we just tell them? We'd say, "Take a look at this."

9 MARTY GROSSMAN:

10 I think from--

12 COUNCILMEMBER FLOREEN:

13 Why would we ask them if they want to?

15 MARTY GROSSMAN:

16 Because it's part of--I don't think, as part of an individual case, it seems to me that the role
17 of the Council wouldn't be to order them, although I don't say that that's an outrageous
18 suggestion. I'm just saying--I will say that I struggled very hard with the balancing of the
19 competing roles here, potentially, of the Council, the Planning Board, and the Historic
20 Preservation Commission, given the two statutory schemes that are involved. Ultimately I
21 reached a conclusion that, first of all, I agree in part with Mr. Wright in that yes, there is a
22 role for the Council to play. I don't say--I don't agree with applicant's counsel to suggest
23 that there is functionally almost no role for the Council to play here. The Council does
24 have to look at compatibility in this case. It does have to look at public interest and so on.
25 But the question of what that evaluation of compatibility should be at this stage concerned
26 me, and I felt that ultimately, the Council's review of compatibility at this stage deals with
27 what is under the binding elements--that is, if in fact the binding elements did not permit a
28 development to be--when the details were worked out, to be compatible with the
29 community, then the Council's role would be to reject that development. If, on the other
30 hand, the binding elements are such that a compatible structure here, compatible
31 structures can be erected in compatible use, then I felt that the Council's analysis of
32 compatibility, given the language imposing the
33 review standards that I mentioned earlier, on the Planning Board in this case would be
34 done. So I feel that it's an unusual situation, and added to that, you have the Historic
35 Preservation Commission and the definition of the environmental setting. I felt under all
36 those circumstances, the best way to go at this would be to let--and also, I should add in
37 the opposition of the staff of the Historic Preservation Commission to their review--I felt
38 the best way to go about this would be to let them determine their own jurisdiction. This is
39 such an unusual case because it is outside of the defined historic district--that is, the
40 proposed building. And yet, it's within the site, the entire site that is before the Council. So
41 under all these unusual circumstances and struggling to try to reach the right balance, I've
42 reached the one that I've recommended here--that is that the Council send it on but with



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1 this admonition that it must go to the Historic Preservation Commission to at least
2 determine its own jurisdiction over this.

3
4 COUNCILMEMBER FLOREEN:

5 Well, it seems to me you're setting--just delaying this exact same argument to a couple of
6 additional settings under this scenario. It's very interesting. So basically you would have
7 us ask the HPC to determine what is the extent of the historic district and environmental
8 setting, right?

9
10 MARTY GROSSMAN:

11 Or in this particular unusual circumstances, they would determine whether or not they
12 should look at this--that is, they're not gonna determine that the historic district extends
13 beyond its definition. They can't do that. That's been defined. But they can determine that
14 the environmental setting in this particular sense goes beyond this defined historic district.

15
16 COUNCILMEMBER FLOREEN:

17 That's kind of a seminal issue for us in terms of what's, you know, we kind of think that
18 when we've made a call, drawn a line, that's where the line is. I mean, we've certainly
19 struggled with this in the ag community in particular where people say, "Well, does this
20 mean we can't build a fence to keep our cattle in?" or whatever, and we say, "Oh, no,
21 because we've drawn the line in such a way." It raises an interesting issue as to how far
22 you extend an environmental setting, certainly in the communities where we've designated
23 historic homes. Typically, it's that home, not what happens next door, unless there is a
24 feeling that you need a district to resolve those compatibility issues. So that's the
25 challenge of drawing the lines here. It's very interesting. Ms. Harris, did you say that on
26 the compatibility issue, kind of the F.A.R. issue, the overlay zone is a .75 F.A.R.?

27
28 PAT HARRIS:

29 .75, and then by virtue of the schematic development plan, what's imposed upon the
30 property is a .5, and we're below that.

31
32 COUNCILMEMBER FLOREEN:

33 You're below that.

34
35 PAT HARRIS:

36 But we're way below the rural village overlay zone of .75. We're .42.

37
38 COUNCILMEMBER FLOREEN:

39 So apparently the Council thought you could have pretty large buildings here. It's
40 interesting. I don't know what they were thinking. I guess the real issue here is parking
41 associated with that, and I guess some of the argument has been, well, if you're gonna
42 have that large an F.A.R., someone must have thought that people



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1 would drive there or our parking rules would kick in. Are those the county parking
2 standards that are kicking in at this point that are requiring this many spaces out here?

3
4 PAT HARRIS:

5 Yes.

6
7 COUNCILMEMBER FLOREEN:

8 So this is another conversation we're having, although in the rural areas, the issue of
9 parking is trickier because we've had some issues with overflow in the community if you
10 cut it too tight. Is that something the Planning Board can revisit in terms of the--do they
11 have any flexibility on the parking requirement here?

12
13 PAT HARRIS:

14 In connection with the site plan? They can issue a parking waiver and reduce the amount
15 of parking. Yes.

16
17 COUNCILMEMBER FLOREEN:

18 Is that something you would request?

19
20 PAT HARRIS:

21 We had carefully--it's needed partly because at certain times during the day, when
22 children are brought to school and picked up, there's more parking needed than other
23 times of the day. One of the things we did do, though, in conversations with the
24 community is let them know that on the weekends, the parking is available for the
25 community, including the meeting house down the street that needs extra parking during
26 some functions
27 that they have.

28
29 COUNCILMEMBER FLOREEN:

30 Sure.

31
32 PAT HARRIS:

33 So it would not be a wasted resource.

34
35 COUNCILMEMBER FLOREEN:

36 So I am gathering, from listening to everybody and from reading the material, the real
37 issue is about the parking facility? No. Ms. Layton says no. Yeah.



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1 MICHELLE LAYTON:

2 I think for us, if you make the building smaller, you don't need as much parking.

3

4 COUNCILMEMBER FLOREEN:

5 Right.

6

7 MICHELLE LAYTON:

8 And that's where we are.

9

10 COUNCILMEMBER FLOREEN:

11 But is it the building, or is it the parking?

12

13 MICHELLE LAYTON:

14 They go hand in hand. I mean, we don't have an objection to either one in terms of
15 development.

16

17 COUNCILMEMBER FLOREEN:

18 You'd just like less of both.

19

20 MICHELLE LAYTON:

21 It needs to look like it belongs there and feel like it belongs there.

22

23 COUNCILMEMBER FLOREEN:

24 And is that where you are, Mr. Wright?

25

26 ALAN WRIGHT:

27 I'd like to see a smaller building, but I'm primarily concerned about the parking. If I had to
28 choose, I would get rid of that parking garage. I just think there's no way that a parking
29 garage, regardless of the historic issue, is compatible with a rural character, a rural village
30 character, of Sandy Spring.

31

32

33 COUNCILMEMBER FLOREEN:

34 OK.

35

36 ALAN WRIGHT:

37 Historic or not.

38



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1 COUNCILMEMBER FLOREEN:

2 And I gather from Ms. Harris, you said that the Montgomery Mutual buildings, which are
3 rather considerable, they're pretty--did you give us F.A.R. numbers for that? I thought I
4 heard you--

5
6 PAT HARRIS:

7 What I said is that the building itself is 10,000 square feet larger than the building that we
8 are proposing.

9
10 COUNCILMEMBER FLOREEN:

11 Yeah. And Mr. Wright would say, well, but they're spread out over more land.

12
13 ALAN WRIGHT:

14 Absolutely. When you look at the picture of the Bentley building, that's a very impressive
15 building. It's big, but it's very impressive. It's got lawns around it, landscaping, trees. It
16 backs up to the woods. I mean, it doesn't feel like it's wedged in by the road with a parking
17 garage behind it.

18
19 PAT HARRIS:

20 If I could, by the road, as I noted, from Meeting House Road, this parking structure is 300
21 feet away. I think--and so it's only that you may in certain vantage points, if you're looking,
22 you may see a brick or cultured stone structure, and then you may know that there's
23 parking behind that, but there's nothing that's leaping out at you that's saying, "That's a
24 parking structure." So I think it's a--I'm curious about where the issue is coming from.

25
26 COUNCILMEMBER FLOREEN:

27 Sure. OK. Thank you very much. That's very helpful to me, to understand where
28 everybody is.

29
30 COUNCIL PRESIDENT ANDREWS:

31 Thank you, Councilmember Floreen. Councilmember Elrich.

32
33 COUNCILMEMBER ELRICH:

34 This is a question for Ms. Layton. Would you say, if you're coming into Sandy Spring
35 village, is the primary experience of the historic village from Sandy Spring or from Meeting
36 House? How would most people experience the village?

37
38 MICHELLE LAYTON:

39 I'm not quite sure I understand.



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1 COUNCILMEMBER ELRICH:

2 How do most people--what's the primary route in?

4 MICHELLE LAYTON:

5 Oh, for example, if you're coming from the east from New Hampshire Avenue, you would
6 come west on Route 108, and from that point you would begin to see the old fire station,
7 Meeting House Road, which is now called the Stabler building, which was the original
8 Montgomery Mutual Insurance building. If you're coming from the west, you would come
9 from Olney, and you would pass Norwood Road, which at that point becomes the
10 entryway to Sandy Spring. You see a--I don't believe you see the townhouses. You see
11 this forest that essentially will need to be taken down for the storm water management.
12 There is an open lot, and then you see the bank building, and then right next to the bank
13 building is this Stabler building.

15 COUNCILMEMBER ELRICH:

16 OK. Mr. Grossman, you said something about subdivision. What is--where is this going in
17 the subdivision process? Is this gonna be combined into a single lot?

19 MARTY GROSSMAN:

20 I'm not sure, ultimately, whether it will, but I think that's the likely eventuality, but they do
21 have to go through subdivision in this case as indicated in the record, so they will be going
22 through subdivision.

24 COUNCILMEMBER ELRICH:

25 So, what would happen to the historic district if you resubdivide so that this becomes part
26 of a single lot, part of which is in the historic district and part of which isn't.

28 MARTY GROSSMAN:

29 Yes. I think that the historic district would remain where it is, but now there would be one
30 large lot in subdivision. Once again, I'm not sure whether or not that ultimately happens
31 here, but it's certainly possible at subdivision.

33 COUNCILMEMBER ELRICH:

34 If you had one large lot, would there be the same issue about--what's the word--proximity,
35 or--

37 MARTY GROSSMAN:

38 I don't think the proximity issue changes. I guess it could potentially change the argument
39 of whether or not it's by definition within the environmental setting as one parcel, but it
40 does have language in that that says a parcel at the time--I forget exactly how that's--

42 PAT HARRIS:



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1 The language is, as of the date on which the historic resource is designated.

2
3 MARTY GROSSMAN:

4 Right. So, you know, I don't know that it would change the legal argument all that much. I
5 think the considerations and the concerns for what was intended in the statute are still
6 there.

7
8 COUNCILMEMBER ELRICH:

9 OK. Um, I

10 was interested in the argument about the Master Plan and the relationship of the Master
11 Plan and the overlay zone, and I always get a little bit troubled when, you know, people
12 will simultaneously argue that the Master Plan is a guideline and then if there are lines
13 that are drawn that are particularly favorable, then the Master Plan delineates that this is
14 the environmental setting. So, what exactly is the relationship between the overlay and
15 this, and shouldn't the Council answer the questions that are posed by the overlay? Isn't
16 that as legitimate for us to answer as it is for the Planning Board to answer?

17
18 MARTY GROSSMAN:

19 I think certainly it is legitimate for the Council to consider those issues. However, I think in
20 this kind of a case where the overlay zone language itself, which was set up by the
21 Council, gives such a large role to the Planning Board that it somewhat circumscribes the
22 Council's review. You look at it in a broader policy way. The Planning Board gets into the
23 details. Even the case that was cited by Ms. Layton was a Planning Board, was a Prince
24 George's County Planning Board case, which itself considered historic district that was
25 adjacent and imposed certain restrictions on a development, and the court upheld the
26 Planning Board's action in Prince George's County. So I'm saying that there is certainly a
27 role for the Council to play here on compatibility and on compliance with the zone, but I
28 think that the Council in doing so has to take into consideration the standards it set up in
29 its own statute for this overlay zone, which appears to give the Planning Board a very
30 specific
31 role in this review.

32
33 COUNCILMEMBER ELRICH:

34 I guess I'm having a hard time separating out why I shouldn't look at or consider the
35 compatibility issues, but the issue that concerns me most is the mass and bulk of the
36 building. My sense is there's nothing like it on Sandy Spring, and it really does change the
37 character of what you experience there. I mean, it will not look like the other buildings.



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1 MARTY GROSSMAN:

2 Well, you won't know the mass and the bulk until
3 the Planning Board acts, because the binding elements here set maximums. They don't
4 set what the height will be. They don't set what the bulk will be. They set a maximum, and
5 so you won't know, ultimately, until the Planning Board acts as to what exactly the size is,
6 and it is true that the Sandy Spring- Ashton Consortium, Mr. Booz, their architect, who
7 testified as an expert for them, said that he was not troubled by the footprint, particularly.
8 He was concerned with the details. So based on the record here, I'd have to say that the
9 balance of the--the preponderance of the evidence is that under the testimony that's been
10 given and the binding elements that are involved that there is compatibility.

11
12 COUNCILMEMBER ELRICH:

13 And that's your view.

14
15 MARTY GROSSMAN:

16 Right, based on the preponderance of the evidence.

17
18 COUNCILMEMBER ELRICH:

19 And if I look at it and say, to me this building occupying this prime space is out of
20 character with other buildings occupying like spaces, that this does not appear to be
21 compatible, that this is my view of this, that it doesn't seem to fit with what else is laid out
22 along this, what I think, what I assume is the main view and main experience of how you
23 experience the village there.

24
25 MARTY GROSSMAN:

26 Right, but what I'm suggesting is that you shouldn't make that determination based on the
27 maximums that are allowed because they may be substantially lower when the Planning
28 Board finishes. That's the concern, and it is very difficult to balance and to harmonize all of
29 these roles that have to be played out here. I'm not gonna sit here and say that the
30 Council shouldn't consider compatibility, because it does have to consider compatibility.

31
32 COUNCILMEMBER ELRICH:

33 OK.

34
35 ALAN WRIGHT:

36 May I jump in on that? I think there are two separate decisions that have to be made, and
37 you can't just say, "Well, everything's delegated to the Planning Board." Otherwise there
38 would be no point in coming before the Council. The Council does have a role in
39 determining compatibility, and the role is not in the details. It's in the decision as to
40 whether or not the project as proposed can be compatible with the surrounding
41 community. And frankly, just looking at the bulk and the siting of the buildings and the
42 parking garage, which takes up the entire parcel here, I just don't see that it is, and that's



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1 why I think the Council needs to take hold of this decision right now and say, "We don't
2 think a parking garage in Sandy Spring is compatible."

3
4 COUNCIL PRESIDENT ANDREWS:

5 Thank you, Councilmember Elrich. Councilmember Floreen.

6
7 COUNCILMEMBER FLOREEN:

8 Thanks. Well, to move us along, I think we've covered, I'd say, pretty much every issue. I
9 agree with Mr. Wright. I think it is our call, basically, and I think it's our call with respect to
10 most of the issues. The implementation of some of the additional details is clearly left to
11 the Planning Board, but the real issue as to the role of the Historic Preservation
12 Commission and, you know, this issue--can this work, in our view, I think is our decision.
13 That's why the process directs us to spend this time on it. So I am going to make a motion
14 to approve the recommendation of the Hearing Examiner, but I would eliminate the
15 referral to the Historic Preservation Commission. I don't see what the value added is here.
16 I think you're just gonna force this project through another set of community expectations
17 that are not gonna achieve anything, and I think it sets a precedent for the Council. If we
18 wanted to--we have the Historic Preservation Commission--some revisions out there that
19 maybe we should look at. But I think that's the context to address it rather than to expand
20 the functions of the HPC in one particular case where the community is, very rightfully so,
21 if we do this--we're telling the HPC to take it up, and I'm not sure what that adds, given the
22 rules as I understand them, the fact that the portion that is to be looked at here is not
23 within the historic district. It is not part of what the Council, a previous Council, designated
24 as subject to their jurisdiction. We can make that call today. That call today would be, well,
25 we're gonna expand the Master Plan environmental setting for this rural community here,
26 but that involves us changing the lines of a Master Plan decision, which has its own set of
27 issues, and I'm not sure that that helps anybody in the scale of having this conversation in
28 a reasoned way. So that would be my motion.

29
30 COUNCIL PRESIDENT ANDREWS:

31 Thank you, Councilmember Floreen. Is there a second?

32
33 COUNCILMEMBER ERVIN:

34 Second.

35
36 COUNCIL PRESIDENT ANDREWS:

37 All right. Seconded by Councilmember Ervin. It was a close call. All right. Any discussion
38 on the proposed motion? OK. I'll just say that I'm going to oppose the motion. I think that
39 the Hearing Examiner really got the balance right. I think he struggled with it, and I agree
40 with where he came out in terms of the balance of interests here, so I'm going to oppose
41 the motion for that reason. Not hearing any other comments on this, we'll vote on the
42 motion as proposed. All those in favor, please raise your hand. That's Councilmember



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1 Floreen, Councilmember Knapp, Councilmember Ervin, and Councilmember Leventhal.
2 Opposed? Councilmember Elrich, Councilmember Trachtenberg, myself, and
3 Councilmember Berliner. The motion fails 4-4. I'll turn to Council Vice President Berliner.

4
5 COUNCIL VICE PRESIDENT BERLINER:

6 I move the adoption of the Hearing Examiner's recommendations.

7
8 COUNCILMEMBER LEVENTHAL:

9 Second.

10
11 COUNCIL PRESIDENT ANDREWS:

12 All right. Moved by Council Vice President Berliner, seconded by Councilmember
13 Leventhal. Is there any discussion? I don't see any. OK. We will now vote on the motion.
14 All those in favor, please raise your hand. Councilmember Trachtenberg, myself, Council
15 Vice President Berliner, Councilmember Knapp, Councilmember Ervin, Councilmember
16 Leventhal. Opposed, Councilmember Elrich and Councilmember Floreen. It is approved 6-
17 2. Thank you all very much, and I thought it was a very productive discussion. Thank you.

18
19 MARTY GROSSMAN:

20 Thank you.

21
22 COUNCIL PRESIDENT ANDREWS:

23 We are adjourning for the morning, and we'll be back--yup, we did finish in the morning.
24 We'll be back at 1:30 for public hearings and then a worksession at 2:00 on amendments
25 to the capital improvements program. We have moved up the libraries to the beginning,
26 and we have a public hearing tonight on the Falklands Apartments, and we are under 40
27 speakers. Now we're down to 39.

28
29 COUNCILMEMBER FLOREEN:

30 Any chance we could start earlier?

31
32 COUNCIL PRESIDENT ANDREWS:

33 No, we cannot move up the time for a public hearing. We have to start at 7:30.

34
35 COUNCIL PRESIDENT BERLINER:

36 We're gonna limit it to two minutes.



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- 1 COUNCIL PRESIDENT ANDREWS:
- 2 All right, and we'll meet in the sixth-floor conference room for our lunch at 12:30. Thank
- 3 you all.



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TRANSCRIPT

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MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Phil Andrews, President

Councilmember Roger Berliner, Vice President

Councilmember Marc Elrich

Councilmember Valerie Ervin

Councilmember Nancy Floreen

Councilmember Michael Knapp

Councilmember George Leventhal

Councilmember Duchy Trachtenberg



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1 COUNCIL PRESIDENT ANDREWS:

2 Good afternoon. We're going to get started with our public hearings, and I'm going to
3 reverse the order, and we're going to start with Item 8. We have no speakers scheduled
4 for this item, but I will describe what the item is. Good afternoon, ladies and gentlemen.
5 This is a public hearing on the following corrective map amendments. G-871, Rosemont
6 section of the Gaithersburg Vicinity Master Plan, that would change a boundary in the
7 Rosemont section of the Gaithersburg Vicinity Master Plan to show the correct delineation
8 between Montgomery County and the city of Gaithersburg. G-872, Sieling property at
9 14668 Southlawn Lane in Rockville, that would correct a zoning boundary between the
10 county and the city of Rockville in the Upper Rock Creek planning area and recommends
11 rezoning one property impacted by this change. And G-869, Darnestown Road and
12 Seneca Road in Darnestown, that would correct mapping errors in the Potomac
13 Subregion Master Plan. Copies of the applications and appropriate maps may be
14 examined at the Council office. Persons wishing to submit additional material for the
15 Council's consideration should do so before the close of business on Tuesday, March 17,
16 2009, and a Planning, Housing, and Economic Development Committee worksession is
17 tentatively scheduled for Monday, March 23, 2009, at 2:00. Please call 240 777-7900 for
18 information. And there are no speakers signed up for these map amendments, and so the
19 public hearing is--is concluded. Item 7 is the public hearing on amendments to the Ten-
20 Year Comprehensive Water Supply and Sewerage Systems Plan--water and sewer
21 category changes. Testimony will be heard concerning four plan amendments
22 encompassing two current category change requests and two previously deferred
23 category change requests. Persons wishing to submit additional materials for the
24 Council's consideration should do so before the close of business on Thursday, March 26,
25 2009. A Transportation, Infrastructure, Energy & Environment Committee worksession is
26 tentatively scheduled for Monday, March 30, 2009, at 9:30 AM. Please call 240 777-7900
27 for information. Before beginning your presentation, if you are speaking, please state your
28 name clearly for the record. We have one speaker for the hearing--Philip Mitchell,
29 speaking for the Bryanshire Corporation, and as is the case with all our speakers, he will
30 have three minutes, if he is here. He is here. Good. Come on up, and just remember to
31 press the button in front of you and to introduce yourself, and there may be questions after
32 you speak.

33
34 PHILIP MITCHELL:
35 Where is the button?

36
37 COUNCIL PRESIDENT ANDREWS:
38 It should be...You see it? You got it. There you go.

39
40 PHILIP MITCHELL:
41 Thanks. I'm Philip Mitchell with the Bryanshire Corporation of Cabin John, Maryland,
42 20818. We are here today to say that our property on Bryanshire--Bryant Nursery Road



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1 has gone through the full process and the hearing with the T&E meeting regarding the
2 water and sewer category change, and when DEP went to contact--ooh, I'm sorry. When
3 DEP went to contact for final approval, given the economic times, our house of worship
4 could not get financing. In lieu of that, we now have a new house of worship, Action
5 Ministries Church, which has over 250 ministries all over the world, who is now also
6 financeable and is very interested in conveying the property to them. At the same time, we
7 would like to see if we could, given the economic times, to save time, to replace the
8 existing house of worship with the other Action Ministry Church. And nothing on the plans
9 would ever change, as per the T&E request, given the 25% of the buildable area,
10 including the whole site, which includes parking and the building. So we are here to ask
11 some help, basically, given the economy of scale, how we are right now, to save time,
12 money, that we have a financeable church that is going to buy this property. So we just
13 wanted to notify you that we're here, we would like to convey to our church, and at the
14 same time, nothing has changed in our plans.

15
16 COUNCIL PRESIDENT ANDREWS:

17 Thank you. And I don't see any questions at this point. I see one--Councilmember
18 Floreen.

19
20 COUNCILMEMBER FLOREEN:

21 Thank you. The issue with this had to do with who was the applicant, did it not, Keith?

22
23 KEITH LEVCHENKO:

24 This request came back to the Council last year, and the committee had recommended
25 approval based on the preliminary review--or preliminary work that had been done on the
26 site in terms of the applicant agreeing to a 25% imperviousness. And--but however,
27 around that time, we also did find out that the applicant's church that had originally wanted
28 to purchase the property was no longer interested, and so the item just was tabled and is
29 now sitting as a deferred item, and that's why it's coming back to you today. The
30 Executive's intent was to basically clear the decks of any deferred items that have come
31 up over time, so today we're hearing that there's now a new potential partner with the
32 applicant. The committee can take this up in a couple of weeks in terms of whether the
33 committee would prefer to keep this particular request deferred and consider it through its
34 own --it will require its own public hearing process, or whether it would like it to go through
35 the reapplication process--back to the Executive and then public hearing and review and
36 action at the Council again. So either way, staff--a new public hearing is required, and
37 since this hearing was not --since the applicant's suggestion today was not the subject of
38 this hearing, I believe a new hearing is still required. The only question is whether we do it
39 as a new request or as the current deferred request.

40
41 COUNCILMEMBER FLOREEN:



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1 All right, and my question was-- was a different one, which is, I thought that we had an
2 issue with respect to who is the actual applicant. So if you could look into that for the
3 purposes of the public hearing and work with the current--the Bryanshire Corporation. As I
4 recall, that had also been an issue. I'm just pulling it out of my head at this point.

5
6 KEITH LEVCHENKO:

7 We'll get more information regarding the current request that Mr. Mitchell has brought up
8 so we have as much information as we can for the committee in a couple of weeks, and
9 the committee can then decide.

10
11 COUNCILMEMBER FLOREEN:

12 Right, but it has to be an--there's a legal issue.

13
14 KEITH LEVCHENKO:

15 I don't anticipate the committee recommending approval or denial in two weeks. I see the
16 committee recommending a procedure for how they want to deal with the request going
17 forward, because we still have to have a hearing.

18
19 COUNCILMEMBER FLOREEN:

20 Right. And the question is, who's the applicant?

21
22 KEITH LEVCHENKO:

23 Exactly.

24
25 COUNCILMEMBER FLOREEN:

26 Thanks.

27
28 COUNCIL PRESIDENT ANDREWS:

29 OK. Thank you. There are no other questions at this point or comments, so this hearing is
30 concluded, and a worksession is tentatively scheduled for Monday, March 30. We're going
31 to take a 10-minute break until 2:00, and we're going to come back and start the
32 worksessions on the Capital Improvements Program.

33
34 COUNCIL PRESIDENT ANDREWS:

35 Good afternoon, everybody. Welcome back to the afternoon session of the County
36 Council. We're going to begin our worksessions on the Capital Improvements Plan, and
37 we're going to revise the order a little bit so that we start with libraries, and then we'll go
38 through the rest of the list as we have it. So I'll turn to the chair of the Health and Human
39 Services Committee, Councilmember Leventhal, for the committee presentation and
40 recommendations on the library amendments to the CIP.

41
42 COUNCILMEMBER LEVENTHAL:



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1 Thank you, Mr. President. This should not take long. Most of the issues that we're getting
2 messages from our constituents about regarding libraries are not before us this afternoon,
3 so...

4
5 COUNCIL PRESIDENT ANDREWS:

6 OK. That shortens things, yeah.

7
8 COUNCILMEMBER LEVENTHAL:

9 So if Councilmembers feel the need to ask any questions of Parker Hamilton, who should
10 come up right now, regarding the Silver Spring or Wheaton Library, they can go ahead,
11 but it's on their time. All we have before us right now is a relatively-- what I expect will be a
12 noncontroversial shift in funding on the Gaithersburg Library renovation. It is simply a
13 change in the expenditure schedule. It is expected that \$2 million will be spent a little later--
14 in FY12 rather in FY10, as the Council approved last year. Essie, is there anything else
15 that we should focus on with respect to the Gaithersburg Library PDF?

16
17 ESSIE McGUIRE:

18 No, just that there's an appropriation recommendation of nearly \$20 million for this project,
19 as well.

20
21 COUNCILMEMBER LEVENTHAL:

22 We also recommend appropriating \$19.8 million in FY10 to keep the Gaithersburg Library
23 renovation on track. That is the recommendation of the HHS Committee.

24
25 COUNCIL PRESIDENT ANDREWS:

26 Right. So the schedule actually wouldn't change, just where the funding is shown in terms
27 of the bills--where the bills come due, in effect.

28
29 COUNCILMEMBER LEVENTHAL:

30 Well, it's a change from what we approved last year.

31
32 COUNCIL PRESIDENT ANDREWS:

33 Yes, it's a change, but not in terms of the--not the schedule. It doesn't change the
34 schedule.

35
36 ESSIE McGUIRE:

37 It does reflect the actual implementation, which at this point is a slight delay. The
38 completion of the library will be in March of 2012. But it's not a delay--not a delay in terms
39 of the changing the schedule with this amendment. It just reflects the current
40 implementation schedule.

41
42 COUNCIL PRESIDENT ANDREWS:



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1 I see. OK. So the library construction would begin at the summer of 2010, basically.

2
3 ESSIE McGUIRE:

4 Yes.

5
6 COUNCIL PRESIDENT ANDREWS:

7 OK. Summer of next year. OK. All right. Thank you. Any other-- Councilmember Knapp.

8
9 COUNCILMEMBER KNAPP:

10 Thank you, Mr. President. What was the plan? When did we... It shows the actual
11 timeline, but what was the timeline supposed to be?

12
13 ESSIE McGUIRE:

14 I'm going to let Mr. Stiles from the Department of General Services give a little more detail
15 on that.

16
17 JAMES STILES:

18 The delay came-- we have about a six-month delay. It came when we did this expansion.
19 We decided to change the scope of the project, and we went through and met with the
20 public and decided to expand the scope of the project, and the time taken to do that--get
21 the new scope and get the architect's amendment processed in terms of doing that work--
22 is the main reason for the delay in the project.

23
24 COUNCILMEMBER KNAPP:

25 OK. The reason I'm asking--this will come up again in--when we get to the Rec budget--is,
26 we'd asked for something that outlined the various--the schedules. We have what we put
27 in the PDFs, and then we have the actual schedule, and virtually everything there that's
28 moving forward on the Rec side is also delayed--delayed from what we originally had put
29 in the PDFs. And so I'm just trying to get a sense of, if that's the case with everything, why
30 is that the case with everything, and do we need to get our PDFs to more accurately
31 reflect what's actually happening on the ground, or is there a way that we can drive that
32 process differently that says, here's our end date, and come back to us and tell us how
33 you're going to hit the end date. It just was one of those things, so I just was curious, but it
34 sounds like that's for a legitimate reason, and so I appreciate that.

35
36 ESSIE McGUIRE:

37 I think this is more of an operational implementation issue.

38
39 COUNCILMEMBER KNAPP:

40 They all may be. That's my point, is they may all be legitimate. It just --as far as managing
41 expectations on the part of the public. If we're going to--if we're really six months behind



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1 everything, then we ought to tell them all and not have them see PDFs that make it look
2 differently. OK.

3
4 **ESSIE McGUIRE:**

5 And we most probably--we can give you an updated timeline, but if the schedule changed,
6 we might not have amended it. We might not have amended the PDF because of a
7 schedule change. We only amended the PDFs if we thought they really needed to be.

8
9 **COUNCILMEMBER KNAPP:**

10 And I guess that's my point, because the only thing, generally, most people see are the
11 PDFs, and so how do we have that dialogue that make--I use this word, and it's overly
12 used, but this notion of transparency. People want to know when the projects that we
13 have approved are on track to be completed, and if all they have is the PDF, and unless
14 we ask for specific something or other, it doesn't--nobody really knows what the schedule
15 is, and it varies from project to project. So I just think we need to think about a better way
16 to make sure that information gets communicated more broadly to the public. OK. Thank
17 you.

18
19 **COUNCIL PRESIDENT ANDREWS:**

20 OK. Thanks. Yeah. I would just add --I know this is a project that the entire Council has
21 been very supportive of, and it's one of the very busiest libraries in the county. I think it
22 was the busiest until the--perhaps the Germantown Library now has a larger circulation,
23 given its size, but Gaithersburg has always been very busy, serves a very diverse and
24 needy population, and is always chockfull of people. And so this will add a second floor,
25 significantly expanded space for the library, which wasn't the original plan. This adds
26 considerable space to allow it to better serve the people that use it. And so it will begin--
27 the construction will begin in the summer of next year, 2010, and completion is scheduled
28 for March 2012, under this revised plan. OK. I don't see any other questions about the
29 Gaithersburg Library. OK. So, Mr. Leventhal.

30
31 **COUNCILMEMBER LEVENTHAL:**

32 Essie, help us out. What else do we need to go over here?

33
34 **ESSIE McGUIRE:**

35 That is the only amendment that was recommended for libraries. There are other
36 appropriation requests that the committee recommended as well, and they're listed on
37 page 2 of your packet.

38
39 **COUNCIL PRESIDENT ANDREWS:**

40 OK. Yes. Councilmember Ervin.

41
42 **COUNCILMEMBER ERVIN:**



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1 I do have a question. My question has to do, actually, with the Wheaton Library. I know
2 we're not taking this up, but as you know, there is a lot going on regarding the new
3 Wheaton Library, whether or not we're going to keep the library in its current place or
4 whether it's going to move, so I've been meeting with a lot of people from the Wheaton
5 community. Yesterday afternoon, there was a lot of questions that were brought to me
6 regarding the decisionmaking process that will take place regarding Wheaton Library. If
7 you could just speak to that for a second, just to give me the opportunity to learn more
8 about what's the timeline on that, because the community has brought to my attention that
9 they came to us a year ago, or --I wanted to know what the situation is with the CIP, the
10 full CIP, whether--what happened on that.

11
12 ESSIE McGUIRE:

13 The Executive had --I'm sorry. The full approved CIP had included a project for Wheaton
14 up until last year. The project did not have full funding in it. It had primarily design funding
15 and placeholder funding in it, and last year, the Council did remove that project from the
16 CIP based on the discussions that were happening regarding the possible relocation of
17 the library. It was the Council's feeling that given that level of uncertainty, it was not
18 appropriate to have the project in the PDF, with that level of uncertainty. Excuse me.

19
20 COUNCILMEMBER ERVIN:

21 So, Parker, if you could address...

22
23 PARKER HAMILTON:

24 Thank you. There is still a level of uncertainty. The Wheaton Library, whether to move or
25 not move, is a part of a broader Master Plan decision within the Wheaton community that
26 involves the possible redevelopment of the Wheaton downtown area and then what will
27 happen along Georgia Avenue. So in terms of the library, the conversation that we're
28 having with the community really needs to be broader, and so Rob Klein, who is the
29 redevelopment officer for the Wheaton area can tell you a little bit more about where we
30 are in terms of downtown Wheaton and Georgia Avenue, but no decision will be made
31 about the future of the library in isolation, and so it's a part of that grander scheme. And
32 it's my understanding that General Services will be looking at kind of mastering that area
33 and we're looking to Gary Stith to take the lead on that, and so in terms of a timeline,
34 we're not going to have any timeline for the very near future. And maybe Rob can add a
35 little bit more.

36
37 COUNCILMEMBER ERVIN:

38 OK. Well, I will--we can talk offline about this. We can schedule a meeting so I can get a
39 fuller understanding, but I do know that if there is no timeline for whether or not the library
40 stays where it is or moves forward has everything to do with the community's concern that
41 the library on its present site, which is no longer in the CIP-- you know, that keeps putting



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1 them further and further behind. So we should definitely schedule a follow-up meeting with
2 you, Mr. Klein, and with Gary Stith and yourself.

3
4 PARKER HAMILTON:

5 Right. And one of the things that we did yesterday, we did take a team of folks from
6 General Services out to the Wheaton Library to look at the current safety and security
7 needs of it.

8
9 COUNCIL PRESIDENT ANDREWS:

10 Yeah. Councilmember Leventhal.

11
12 COUNCILMEMBER LEVENTHAL:

13 Councilmember Ervin, just before you arrived, I said that if-- that the library issues on
14 which we're getting the most email from our constituents are not before us today, but that
15 if Councilmembers had any questions about Wheaton or Silver Spring, we could take
16 those up. Let me just assist, to the extent that I can, all of my colleagues who may be
17 answering mail on those subjects, from my perspective. It seems clear that the County
18 Executive is going to have to address the Wheaton Library in the CIP that he will submit a
19 year from now--the complete six-year CIP--and so, between now and then, presumably,
20 there will be a process by which the County Executive will be determining his
21 recommendation. Then that would--isn't that correct?

22
23 PARKER HAMILTON:

24 Yes. That's the mastering plan that we hope to have Gary Stith lead. That's correct.

25
26 COUNCILMEMBER LEVENTHAL:

27 Yes, OK. Understood. But just insofar --I mean, the Wheaton Master Plan is related, but
28 not the focus right now. With respect to the library, presumably we would not adopt
29 another six-year CIP with no PDF for the library. Last year, we said, "Things are
30 undefined. It's going to take a couple of years. Let's not do anything." It would seem likely,
31 would it not, that the County Executive would have a recommendation by one year from
32 now, when he submits his complete CIP?

33
34 PARKER HAMILTON:

35 You would hope that that would be the case, Mr. Leventhal.

36
37 COUNCILMEMBER LEVENTHAL:

38 Hope that's the case. OK. So it's on the County Executive, then, as your answer--as my
39 colleague from District 5 and the at-large members, and any other members who are
40 getting communications from constituents in Wheaton, the process presumably would
41 begin with a recommendation from the County Executive. The discussion of the library in
42 Wheaton is not being driven by the County Council. The County Executive would send us



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1 something, I would have--I would think, perhaps, within that year time frame. But we'll see
2 what happens in the Executive branch. With respect to Silver Spring, there is a process
3 that has been initiated really now by the Council, and that process is--Well, first of all, on
4 Thursday, I'll be absent, and Mr. Berliner will be acting chair of the HHS Committee and
5 will have discussion of how much planning money we need and the dollar amounts in the
6 PDF for the Silver Spring Library. But what needs to occur--the remaining unresolved
7 issue has to do with the pedestrian bridge over Wayne Avenue, and the way that that will
8 be resolved is that our legal staff has advised us that we need to reopen the Silver Spring
9 Urban Revitalization Plan which was adopted by the County Council in 1999. And there's
10 language in that plan that prohibits any pedestrian bridges on Wayne or Georgia or
11 Colesville, I guess. I can't remember. There was a third street that--Spring Street, maybe.
12 I can't remember. One of the major streets in Silver Spring. In any event, so we've asked
13 DHCA to begin drafting an amendment to the Silver Spring Revitalization Plan only
14 focused on will there or will there not be an overpass on Wayne Avenue. And so that will
15 come to the Planning Board. The Planning Board will give us comments. We'll look at it.
16 This will all play out over the course of the spring and summer. So that discussion will be
17 resolved through--and there will be opportunities for public input, both at the Planning
18 Board and here on whether there should be that overpass over Wayne Avenue. So that's
19 the status of that.

20
21 COUNCIL PRESIDENT ANDREWS:

22 OK. All right. Thank you, Councilmember Ervin, Councilmember Leventhal.
23 Councilmember Floreen.

24
25 COUNCILMEMBER FLOREEN:

26 Thanks. Well, on this general subject, I just wanted to comment. I don't know. Perhaps
27 there was a time when the Council resolved the location of the Silver Spring Library before
28 I showed up here. I don't know. But it seems to me that that has continued on its path.

29
30 COUNCILMEMBER LEVENTHAL:

31 That is a settled question at this point.

32
33 COUNCILMEMBER FLOREEN:

34 I know. I know. It's settled.

35
36 COUNCILMEMBER LEVENTHAL:

37 Whether we were here, Nancy, or not, but it is--that is now settled question.

38
39 COUNCILMEMBER FLOREEN:

40 It is, indeed, and I'm saying I appreciate that, but I would hate for us to be in the same
41 situation with respect to the Wheaton Library. So whatever the process is for addressing
42 this --obviously, the community is very engaged. A lot of people have these ideas. We, no



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1 doubt, have some thoughts of our own, and it would be helpful to corral at least some of
2 the fundamentals of that thinking in some environment. And I honestly don't have an
3 answer to it, but I would say I have felt very frustrated about the Silver Spring situation.
4 And respecting that that's a done situation, I would hope that we could have a somewhat
5 more collaborative, reasoned approach to the location of the Wheaton Library at some
6 point. And I don't know if it's a planning thing, if it's an urban revitalization thing, if it's a
7 DHCA thing, if it's a library thing--whatever the process is. But there are, you know, lots of
8 competing priorities that I think need to be resolved with respect to that library. Maybe it's
9 just the-- next year, as you suggested, with respect to the CIP, that will just put it front and
10 center, and we'll have that conversation at that point. Maybe that will be the point of
11 decisionmaking.

12
13 COUNCILMEMBER LEVENTHAL:

14 Well, just to be clear, as some point, we will--as we have done now three times--you and I
15 came to the Council at the same time, so when I say "we," we've had three opportunities
16 to vote on CIPs that stated with specificity where the new Silver Spring Library would be
17 located. At some point, we wouldn't be able to proceed with appropriating construction
18 dollars unless the location of the Wheaton Library were identified. But I'm not certain what--
19 -and maybe you want to enlighten us, maybe you don't, as to why you were frustrated
20 about the location of the Silver Spring Library, but that was settled some years ago. Land
21 was acquired by the county, buildings have been demolished. That's well underway.

22
23 COUNCILMEMBER FLOREEN:

24 And so I --whether it's a planning environment, a library locational environment, a CIP
25 environment, I think the issue of the Council weighing in on a change in location...

26
27 COUNCILMEMBER LEVENTHAL:

28 Oh, we'll have a chance to weigh in.

29
30 COUNCILMEMBER FLOREEN:

31 Should be very clear. That's all I'm suggesting, and I'm requesting an opportunity to
32 participate in that, based on what I'm reading in my--what appear to be sort of premature
33 pleas to us at this point in time.

34
35 COUNCILMEMBER LEVENTHAL:

36 Yeah. I think it is important. I'm trying to get on the record exactly the same thing. That is -
37 -First of all, what I understood occurred was that the Library Department held a
38 community meeting or a forum of some kind at the current Wheaton Library. Isn't that so?
39 There were community residents who showed up and expressed their views to you,
40 Parker. Isn't that right?

41
42 PARKER HAMILTON:



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1 That is correct. There was a public meeting on February 9, and it came about because we
2 received word from the community that they wanted an idea of what was going on
3 because that information was already out there--that the library was going to be moved,
4 and they felt that they had not had an opportunity to hear why or to have a full scope of
5 what was going on. So we did begin the process of engaging the community on February
6 9.

7
8 COUNCILMEMBER LEVENTHAL:

9 And it was helpful to do that, but the Executive branch has not made any proposal, and
10 then just to clarify, we're the legislative branch. I wouldn't envision that the Executive
11 branch would--I mean, we can informally weigh in now or at any point, but the Executive
12 will make a proposal when he gets around to it, and when he does, then it's in our hands,
13 and it won't happen unless we act on it, and we would act on it through a process which
14 would include public input. If it were in the CIP, there would be a hearing on the CIP.

15
16 COUNCILMEMBER FLOREEN:

17 Yeah, yeah.

18
19 COUNCILMEMBER LEVENTHAL:

20 So I think we're all saying the same thing. There absolutely will be a clear process by
21 which we will act. We will act in public. We will have public input. The Executive has to
22 submit something to us. It won't happen until we vote on it, and exactly when that occurs--
23 it's all triggered by the Executive's decision, and the Executive will make a decision in his
24 way and in his own time, and when he does, then it will come to us, and then we'll make a
25 decision.

26
27 COUNCILMEMBER FLOREEN:

28 I think we're in--I think we're in complete agreement. Thanks.

29
30 COUNCIL PRESIDENT ANDREWS:

31 OK. Thank you. All right. I don't see any other lights on regarding library issues, so that
32 concludes the Council Session on that, and that's approved, and we're on to--we're back
33 to Item 9 on the budget, which is General Government. And I'm going to turn to the PHED
34 Committee, right? All right, I'm going to turn--

35
36 COUNCILMEMBER FLOREEN:

37 No. It's T&E.

38
39 COUNCIL PRESIDENT ANDREWS:

40 OK. I'm going to turn to T&E. Sorry. OK. And Councilmember Floreen.

41
42 COUNCILMEMBER FLOREEN:



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1 Thanks. Well, these are just modest changes which Mr. Sherer has staffed. First one is
2 some structural repairs to the Red Brick Courthouse, adding \$429,000 to the CIP for
3 repairs for flooring systems on the first and second floors, and I'm sure we all want to see
4 that happen. The second issue is an addition to the CIP for environmental compliance at
5 the transportation maintenance facilities. And the increase, Chuck, on this is--goes from
6 \$260,000, which we approved, to \$7 million, which is sort of a big jump. Right?

7
8 CHARLES SHERER:
9 I would say so.

10
11 COUNCILMEMBER FLOREEN:
12 You would say so. So that's really what we're looking at for addressing covered storage
13 for supplies and materials and to reduce contamination of storm water runoff. And the
14 committee recommends the Council's support.

15
16 COUNCIL PRESIDENT ANDREWS:
17 OK. No lights on that one? But that is the...that is a big increase. That's page 2, FY10.
18 "The Executive recommended an amendment which includes structural improvements to
19 covered areas at depots at Colesville, Bethesda, Poolesville, Damascus, and Seven
20 Locks, plus the replacement of the salt barn," and that's why the spending is now shown
21 to be --or the cost is increased from \$260,000 to \$7 million, because of the change in the
22 scope, I guess--or at least the better estimates. One of the two, or both.

23
24 COUNCILMEMBER FLOREEN:
25 Frankly, hopefully, this will be used to show our adherence to enhanced environmental
26 standards and satisfying our Discharge Permit with the state of Maryland. No doubt. We
27 didn't talk about that in committee, but it strikes me it's quite relevant.

28
29 COUNCIL PRESIDENT ANDREWS:
30 And it does break up beneath there as to how much for each. OK. All right. Any other
31 questions on that? Councilmember Knapp.

32
33 COUNCILMEMBER KNAPP:
34 Thank you, Mr. President. It's kind of that, and it's kind of a little broader issue. Were we
35 expecting these to come through Planning, that we would have this kind of an increase in
36 this year?

37
38 CHARLES SHERER:
39 I was not expecting it.

40
41 COUNCILMEMBER KNAPP:



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1 OK. I don't know the best way for us to do this, but when we did the CIP last year, we tried
2 to keep a fair amount of money set aside so that as projects came through Planning, we
3 would actually have the resources to move those into construction. And there are a lot of
4 projects that have now kind of come forward that are kind of competing with things we'd
5 already put in the CIP, but we haven't kind of structurally put them all together, so we're
6 not necessarily in a position yet to make choices between all of them. And I just urge us to
7 think about how we kind of get some type of feedback as to what projects that we thought
8 were going to come through Planning and might be ready to move to construction, and
9 what kind of design--what kind of requirements we think we might have for our GO Bond
10 set-aside for those, what additional projects may be coming forward that people would like
11 to see competing for those dollars, and what other projects, like these, that we hadn't
12 even--didn't even really have on a list at all, may be coming forward. Because I think it's
13 important for us to understand those as we move forward, either for both this year and
14 moving into next year. And so, I don't know the best way for us to get that information, but
15 I think we ought to think about that in the next couple of weeks so we get that in front of
16 us.

17
18 COUNCIL PRESIDENT ANDREWS:

19 Yeah. I think you're right. I think that is important, to understand how this competes
20 against the other projects that are ready to go from planning to construction.

21
22 COUNCILMEMBER KNAPP:

23 Well, these and any of the other things that are coming up. I mean, there wasn't a lot of
24 capacity that we set aside, but we had some pretty clear ideas as to what we thought
25 those dollars were going to be allocated to.

26
27 COUNCILMEMBER FLOREEN:

28 And let me just point out that they did expand quite significantly this --
29

30 COUNCILMEMBER KNAPP:

31 No, and I think these projects, these are warranted.
32

33 COUNCILMEMBER FLOREEN:

34 This kind of project--I will draw your attention to the fact, as well, that what we're looking at
35 is a million-dollar--million dollars addition in Fiscal Year 10, \$1 million addition--well, a
36 million dollars in Fiscal Year 11, \$1.8 in Fiscal Year 12, and \$2.9 in Fiscal Year 2013. So
37 at least they are spread out. It's not a one-year--one-year hit.
38

39 COUNCILMEMBER KNAPP:

40 And I think these are fine and warranted. It just called to mind that there are a lot of
41 projects that are kind of out there looming on the horizon that could move in there and



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1 suck up additional capacity. We just need to understand what that is and how they
2 compete with other things.

3
4 COUNCIL PRESIDENT ANDREWS:

5 That's a good point. I think we do have to try to keep a view of the whole forest at the
6 same time as we get--see the individual trees come our way, so to speak.

7
8 COUNCILMEMBER FLOREEN:

9 Are we including--presumably, we used to--traditionally have sort of a weekly chart that
10 shows the additions to the budget over the course of the years in the CIP. Don't we,
11 Chuck?

12
13 JACQUELINE CARTER:

14 Glenn does that.

15
16 CHARLES SHERER:

17 Yeah. Glenn does that.

18
19 COUNCILMEMBER FLOREEN:

20 So Glenn Orlin provides that for us to show how much capacity is being spoken for.

21
22 CHARLES SHERER:

23 That's true.

24
25 COUNCILMEMBER FLOREEN:

26 And perhaps we'd like to ask him to show us what he thinks is left...

27
28 CHARLES SHERER:

29 I will pass that along to him.

30
31 COUNCILMEMBER FLOREEN:

32 As we go along. We'll take a look at it and see if we like that reporting approach. That
33 might address this issue, which we're seeing a lot of spending, indeed.

34
35 COUNCIL PRESIDENT ANDREWS:

36 We'll ask Glenn Orlin to do that. That would be helpful. Good suggestion.

37
38 JACQUELINE CARTER:

39 We do work with Glenn on tracking the GO set-aside, but just to mention, as far as this
40 project goes, it's not like a stand-alone, huge building, in which we have a significant
41 amount of planning and design before we can program construction cost, and I think DGS



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1 could speak more to that. So that's why we've got a phased approach to specific facilities.
2 And also it was considered a higher priority because of environmental concerns.

3
4 COUNCIL PRESIDENT ANDREWS:

5 OK. Thank you. All right.

6
7 COUNCILMEMBER FLOREEN:

8 Thanks.

9
10 COUNCIL PRESIDENT ANDREWS:

11 That's it for General Government.

12
13 COUNCILMEMBER FLOREEN:

14 Yeah, that's it.

15
16 COUNCIL PRESIDENT ANDREWS:

17 OK. All right. We're going to move on now to the Housing Opportunities Commission and--
18 staffed by Linda McMillan. Thank you, Chuck, and I'll turn to the chair of the Planning,
19 Housing, and Economic Development Committee, Councilmember Knapp.

20
21 COUNCILMEMBER KNAPP:

22 Thank you, Mr. President. Following in the footsteps of my colleagues, this is an off-year
23 CIP, and so we have just a few modifications, both--in the next couple of items that we're
24 addressing. The first is HOC. The biggest significant issue there is an approval of \$8.4
25 million to install fire alarm and sprinkler systems in four HOC buildings that house elderly
26 residents--Holly Hall, Elizabeth House, Arcola Towers, and Bauer Park. This is the same
27 that was recommended by the Executive in the amendments that were sent over to us.
28 We modified the expenditures a little bit, but we recommended 1.566 million in
29 expenditures for FY10, based on what HOC indicated they can complete at Holly Hall,
30 which is more than what the Executive recommended. But then the committee also
31 recommended 2.7 million in FY11 for Elizabeth House and 3.9 million in FY12 for Arcola
32 Towers and Bauer Park. The FY10 appropriation is 4.3 million. Any questions on that?
33 This seemed fairly straightforward to us, and since we ultimately are liable for this
34 because they're in our risk management pool, it seemed as though this made an awful lot
35 of sense, to make sure that we sprinkler these buildings.

36
37 COUNCIL PRESIDENT ANDREWS:

38 I know this has been a concern of HOC for a number of years, as well, and I think this is a
39 very good initiative.

40
41 COUNCILMEMBER KNAPP:



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1 And then the second request was to increase funds, supplemental funds, for public
2 housing improvements, an issue that we are all, I think, very sympathetic toward and
3 would love to put more money into, but at this point, don't necessarily know that we have
4 the resources to do so, and so what the committee recommended was leaving in place
5 the approved 1.25 million for FY10, with a suggestion that we at least get updates as to
6 how the additional stimulus funds may or may not have an impact on this from a federal
7 perspective, which could be used for HOC. And so we are hopeful--I think that's the word
8 that was used here--and we're going to continue to monitor that, and if we can find
9 additional resources, I think we would all like to do that.

10
11 ANNIE ALSTON:

12 Councilmember Knapp, I'd like to--

13
14 COUNCILMEMBER KNAPP:

15 Press on...

16
17 COUNCIL PRESIDENT ANDREWS:

18 Please introduce yourself, as well, for folks watching.

19
20 ANNIE ALSTON:

21 Good afternoon. My name is Annie Alston, and I am the Executive Director of HOC, and I
22 have with me Terri Fowler, who is our Budget Officer, and I have Jerry Robinson, who is
23 our Director of Housing Management. I'm pleased to report to you that as of last week, we
24 did receive notification from HUD that are going to be eligible for stimulus money in the
25 amount of \$3.1 million, and that money will be available to us as early as April 10.

26
27 COUNCILMEMBER KNAPP:

28 Wonderful.

29
30 ANNIE ALSTON:

31 We are required to be able to award contracts within--after we get the money, within 120
32 days after the date of the funding is available to us, and we are prepared to do that. We
33 had put together a five-year plan, and I think that may have come over to you showing
34 that we have a need in the amount of about \$50 million. So this 3.1 will go a long ways to
35 address needs that we have already identified for FY10.

36
37 COUNCILMEMBER KNAPP:

38 Great. As you put that information together--and obviously, we'll have to approve things,
39 but just to give us a list of what it is that you think you're going to do. I know that you've
40 got a long list, and there's many worthy projects, but just so we're informed as to where
41 you're going to go with those.



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1 ANNIE ALSTON:

2 Yes. In fact, we've already put that list together. Jerry?

3
4 JERRY ROBINSON:

5 For the record, I'm Jerry Robinson, Director of Housing Management. Right now, we're
6 planning on spending about 2 million of that on our scattered site housing, which has been
7 severely neglected over time. We're doing both kitchen and bath upgrades, some siding
8 and roof replacement, as well as handicap accessibility, some landscaping, floor covering,
9 appliances--just about everything you could imagine for some of these 30- and 40-year-
10 old buildings that have had very little upgrade in the past. So about 2 million of that is
11 going towards that. About 550,000 is going towards our elderly facilities, some for the
12 replacement of our HVAC systems. We've had a failure of a chiller, and so we're trying to
13 replace those, as well. And about 300,000 is going to our multifamily sites, mostly for
14 HVAC improvements.

15
16 COUNCILMEMBER KNAPP:

17 Great.

18
19 COUNCIL PRESIDENT ANDREWS:

20 Good.

21
22 COUNCILMEMBER KNAPP:

23 Thank you. That is good news.

24
25 COUNCIL PRESIDENT ANDREWS:

26 That's very good, and these are one-time expenses, so they won't have the continuing
27 operating costs. In fact, it may reduce some of your operating costs, to the extent it
28 reduces immediate maintenance costs, so that's good.

29
30 COUNCILMEMBER KNAPP:

31 OK. Further questions? OK.

32
33 COUNCIL PRESIDENT ANDREWS:

34 There are--don't see any other questions, so all right. Council is supportive of the
35 committee's recommendations on the HOC. Thank you all.

36
37 ANNIE ALSTON:

38 And I would just like to thank the Council for your continued support for the capital
39 improvements for our public housing and for providing decent, safe, and sanitary housing
40 for our residents, as well as maintaining a level of compatibility in our broader
41 communities. And I thank the Council for that.



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1 COUNCILMEMBER KNAPP:

2 Thank you very much.

4 COUNCIL PRESIDENT ANDREWS:

5 Thank you.

7 COUNCILMEMBER KNAPP:

8 Keep up the good work. OK. Turning to--

10 COUNCIL PRESIDENT ANDREWS:

11 Recreation. Right. Take it away.

13 COUNCILMEMBER KNAPP:

14 Department of Recreation. Again, very, very straightforward. It's an off year, and so this is
15 just an update and a couple of minor amendments. The committee did not object to the
16 Council staff's recommendation to shift 1.976 million in construction expenditures from
17 FY09 to FY10, consistent with the current production schedule, and to approve the FY10
18 appropriations recommended by the County Executive, and to shift 500,000 in
19 construction from FY--from funding from FY11 to FY12, as recommended by the County
20 Executive. I had also requested an update as to the project schedules, which, if you look
21 at in the various circles on the back associated with each of the PDFs, there is a
22 corresponding project schedule that shows what the original schedule was as listed in the
23 PDFs, what the previous schedule had been, and what the current schedule is, and any
24 major issues associated with those specific projects. This is kind of where my comment
25 earlier came from. If you look, those projects that are underway, most of them are all
26 different from the schedule that was originally outlined in the PDF, and unless we get
27 these periodic updates, I think it's difficult sometimes to keep the community informed as
28 to what the status and timelines are, and so I think one of the things I'd like to see more of
29 is if we, as we get PDFs, to kind of get these updates associated with them, because I
30 think it's important for us to try and communicate that, both on this and other projects, so
31 people can see where things really stand. But those are really the only changes that we
32 made to the existing CIP. So, Vivian, anything? Gabe?

34 VIVIAN YAO:

35 I'm done.

37 GABRIEL ALBORNOZ:

38 That was a good summary.

40 COUNCIL PRESIDENT ANDREWS:

41 OK.



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1 COUNCILMEMBER ERVIN:

2 May I ask a question?

4 COUNCIL PRESIDENT ANDREWS:

5 Oh, yes. You certainly may. Councilmember Ervin.

7 COUNCILMEMBER ERVIN:

8 I know I'm not supposed to ask. I do have a question on the Rafferty Center and at what
9 point we are on the MOU between the county and the developer.

11 GABRIEL ALBORNOZ:

12 The county has been in discussions with the developer to acquire a parcel of land to be
13 able to accommodate some restrooms that we've got to build on to the facility. Those
14 negotiations are ongoing. There was a change in the--some sort of change in the
15 developer of the project, so the negotiations that had happened are now being re-formed
16 with the new Project Manager that's on site. But we are confident that we're going to have
17 some resolution to that very shortly.

19 COUNCILMEMBER ERVIN:

20 I will definitely want to follow up with you on that because a lot of our discussion around
21 the Rafferty Center is also the discussion about the library and Wheaton generally and
22 where that community feels like they've been sort of left out in the cold. So I just want to
23 make sure we follow up on that. Thank you.

25 COUNCIL PRESIDENT ANDREWS:

26 Thank you, Councilmember Ervin. Council Vice President Berliner.

28 COUNCIL VICE PRESIDENT BERLINER:

29 Mr. Director, just remind me where we stand with respect to the Friendship Heights
30 Community Center. We're on track there?

32 GABRIEL ALBORNOZ:

33 We're on track. We're going to make a hire in May and gear up for a grand opening
34 sometime around July 1.

36 COUNCIL VICE PRESIDENT BERLINER:

37 Thank you, sir.

39 COUNCIL PRESIDENT ANDREWS:

40 OK. Thank you.

42 COUNCILMEMBER KNAPP:



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1 I just had one quick update I wanted to try and--and I don't necessarily need the answer to
2 it right now, but I had occasion to be at the Germantown Swim Center and looked up
3 because pieces of the ceiling appeared to be coming down, and I knew that those had
4 been an issue early on, and I thought we had rectified it and had an opportunity to talk to
5 staff and realized that we are still in the midst of a long discussion. I just wanted to try and
6 get a sense--get an update from you, not necessarily here today, but to get an update as
7 to where we stand and how soon we think we can resolve that, because I know that the
8 thousands of patrons who use it are getting pretty annoyed, swimming, having pieces of
9 the ceiling fall on them.

10
11 GABRIEL ALBORNOZ:

12 On the 30,000-foot level, we agree, obviously. We're trying to address that issue. We've
13 been working with our colleagues in the Department of General Services, who is working
14 with the contractor, and there's a negotiation process there. I don't know if, Jim, you want
15 to elaborate at all on that.

16
17 JAMES STILES:

18 Actually, it's moved on to the legal point. We're working with the Office of the County
19 Attorney to--we're hiring an expert to form a case against the construction contractor at
20 this point and/or to justify that it is his fault, so that we're actually at the point of moving
21 into a legal point. That's part of the reason why it hasn't moved as quickly as--as we had
22 hoped.

23
24 COUNCILMEMBER KNAPP:

25 Good. Thank you.

26
27 COUNCIL PRESIDENT ANDREWS:

28 OK. All right. I don't see any other questions about the Capital Improvement Program
29 amendments for the Department of Recreation, so they're accepted, and we're going to
30 now go on to our final worksession of the afternoon, which will be on Department of
31 Health and Human Services wellness centers and Linkages to Learning/School Based
32 Health centers. The Education and Health and Human Services committees met
33 regarding these amendments, and I'll turn to the chairs of the Ed Committee, Valerie
34 Ervin, Councilmember Ervin, and George Leventhal, chair of the of the Health and Human
35 Services Committee, and they can take us through.

36
37 COUNCILMEMBER LEVENTHAL:

38 OK, Mr. President. Thank you. Do we have our staff? Maybe not. Oh, Vivian, there you
39 are. Well, Essie was sitting over here. I was looking to my right. Vivian, glad you're here.
40 OK. So the Health and Human Services and Education committees have, under our joint
41 jurisdiction, these facilities that provide access to health care and behavioral health
42 services that are located at school sites but that are run out of the Health and Human



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1 Services Department, and I'm going to ask Vivian to walk us through the details of these
2 recommendations. I don't know if Chairwoman Ervin wanted to make any comments
3 before we asked Vivian just to walk us through the CIP recommendations.

4
5 VIVIAN YAO:

6 Sure. The CIP for the department has three active projects. The County Executive has
7 recommended the School Based Health and Linkages to Learning Center and the High
8 School Wellness Center projects for amendment. An update on the Child Care in Schools
9 project can be found on page 9 of the packet. For the School Based Health Center and
10 Linkages to Learning, the proposed PDF for the Linkages to Learning--for this project--
11 adds funding to renovate Linkages space at Fox Chapel Elementary School concurrent
12 with major school construction. The proposed PDF program is 535,000 in construction
13 dollars for Fiscal Year 10. The proposed PDF also includes funding for four school-based
14 health-center projects. The Summit Hall Center opened in Fiscal Year 09. The New
15 Hampshire Estates Center is scheduled to open in Fiscal Year 10. It's about 90%
16 complete at this time. The Rolling Terrace Center has \$240,000 in planning funds
17 programmed for Fiscal Year 10. And the Highland Center is scheduled to begin planning
18 in Fiscal Year 11. A chart breaking out expenditures by school for the six-year CIP period
19 can be found on page 3 of your packet. The Fiscal Year 10 appropriation request is
20 775,000, which includes construction dollars for the Fox Chapel project and planning
21 funds for the Rolling Terrace project. Council staff notes that the school-based health
22 centers are proposed as stand-alone projects and are being produced at a rate that's
23 faster than they had been currently produced and that the total Operating Budget impact
24 for the project over six years is about 4.9 million. The committee has recommended
25 adopting the Executive's recommended expenditure schedule for the school-based health
26 centers as provided in the school-based--as provided in the PDF. They also left open the
27 possibility of reducing construction funding for the remaining school-based health centers
28 projects if the Council is concerned about fiscal constraints at the time of reconciliation.

29
30 COUNCIL PRESIDENT ANDREWS:

31 OK. I don't see any questions yet. Oh, well, actually, I'm sorry. I see --you have your light
32 on. Do you want it on? You're on. No? OK. No questions at this point.

33
34 VIVIAN YAO:

35 OK. Going on to the high-school wellness centers. The County Executive recommends
36 3.2 million over six years for the high-school wellness center project for centers at
37 Northwood, Gaithersburg, Watkins Mill, and Wheaton high schools. The proposed
38 amendment programs 1.5 million in construction funding for the Northwood Wellness
39 Center in Fiscal Year 10 and construction costs--I mean, the total cost for the Northwood
40 Center is 1.9 million. Also for Fiscal Year 10 is planning funds and-- planning and design
41 funds for the Gaithersburg and Watkins Mill centers. The Wheaton Center is scheduled for
42 planning and design in Fiscal Year 11. A chart breaking out expenditures by school for the



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1 six-year period can be found on page 5 of your packet. The Fiscal Year 10 appropriation
2 request is 2.6 million, and 865,000 was provided for the Northwood Center Operating--in
3 the Fiscal Year 09 Operating Budget. An update on services currently provided at the
4 Northwood Center can be found at circles 23-25 of your packet.

5
6 COUNCILMEMBER LEVENTHAL:

7 So let me just say on the issue of the high-school wellness center, I want to thank Vivian,
8 who did quite a bit of research and identified the Maryland State Department of Education
9 standards for these types of facilities, which begin on circle 18. And Vivian brought to our
10 attention that there are these state-wide standards that presumably--let us hope that the
11 Maryland State Department of Education would not be promulgating standards for
12 crummy, unsatisfactory facilities, but the size and scope of the school-based health
13 centers proposed for Montgomery County significantly exceeded, in size and in cost,
14 those in the state standards. We want nice school-based health centers. We want
15 comfortable, safe, hygienic, appropriate school-based health centers, but Vivian pointed
16 out that the state had a standard which might cost us less if we constructed to that
17 standard, and so what-- so the committee has made no judgment on the high-school
18 wellness centers that will follow Northwood. Northwood is well on the way, and we don't
19 want to delay that. But for those that will follow, we'll come back and look at, when we next
20 take up the CIP, whether we may be able to build those to the state standard and perhaps
21 save some money. And so I appreciate Vivian bringing that to our attention. It had not
22 apparently been...Well, let's just say we do things very nicely in Montgomery County. We
23 have high standards, and we want the very best, but it may be that we could proceed in
24 the future in a way that would achieve some efficiencies and some savings.

25
26 COUNCIL PRESIDENT ANDREWS:

27 Very good. Councilmember--Council Vice President Berliner.

28
29 COUNCIL VICE PRESIDENT BERLINER:

30 And, Mr. Chairman, unless I'm mistaken, even on Northwood, we asked them to come
31 back with an alternative design so that we could see whether or not, when they put it out
32 to bid, whether --what the differences would be so that we could even, on the project--we
33 didn't want to stop it from going forward, but we did want to see whether we could make
34 some savings even there.

35
36 COUNCILMEMBER LEVENTHAL:

37 That's correct. We were going to ask for bids at a different scope, and we were told that
38 would not delay the construction of the project.

39
40 KATE GARVEY:

41 Is it possible for me just to make one clarification? The standards that were reviewed and
42 shared by Council staff focused on school-based health centers, and these are different



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1 from the wellness centers. Those are focused on the provision of somatic health services
2 and not the Positive Youth Development and the other support services that we are
3 proposing to and committed to related to the wellness center. So I just want to make sure
4 we're comparing similar things, and when you look at the breakdown in terms of the rooms
5 and the utilization of the school-based health center standards, they relate very much to
6 the provision of somatic health services and not to the other elements that we are
7 providing.

8
9 VIVIAN YAO:

10 I just wanted to clarify, too, they also apply to the mental health services, as well, because
11 those are also provided at other school-based --or wellness centers, school-based health
12 centers, in the state.

13
14 COUNCIL PRESIDENT ANDREWS:

15 OK. All right. I don't see any other questions, so--

16
17 COUNCILMEMBER LEVENTHAL:

18 No, so that would then take us to the Child Care in Schools, just an update on that. Vivian,
19 did you want to give us the update on the Child Care in Schools?

20
21 VIVIAN YAO:

22 Oh, sure. Sorry. Under this project, basically, the Executive did not recommend this
23 project for an amendment. There are three schools that are provided for in this PDF--
24 Takoma Park, Weller Road, and Bel Pre elementary schools. The center at Takoma Park
25 is scheduled to open in August 2010, Weller Road in August 2013, and Bel Pre in August
26 2014. The Fiscal Year 10 capital appropriation request is 143,000. The child care--just so
27 you know, the child care center at Galway Elementary School has been in operation since
28 January 2009.

29
30 COUNCILMEMBER LEVENTHAL:

31 OK.

32
33 COUNCIL PRESIDENT ANDREWS:

34 No questions or comments? I think that's--I think that does it, then. All right. Well, thank
35 you to the HHS and Education committees for their recommendations. They are accepted
36 by the Council, and that will conclude our business for this afternoon. The Council will be
37 back at 7:30 for a public hearing. Thank you all. We'll have a public hearing tonight on an
38 amendment to the Master Plan for Historic Preservation, Falkland Apartments, right here,
39 and we have 39 speakers scheduled. So have a good dinner.